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NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 15th November 1958:—

Issue No.	No. and date	Issued by	Subject
230.	S.O. 2369-A, dated 13th November, 1958.	Election Commission, India.	Amendment of Notification No. 56/1/58 (2), dated 12th May, 1958.
232.	S.O. 2371, dated 15th November, 1958.	Ministry of Labour and Employment.	Extending the period of operation of Award of the Industrial Tribunal, Nagpur.
233.	S.O. 2372, dated 15th November, 1958.	Ministry of Information and Broadcasting.	Certification of films specified therein.

Copies of the Gazettes Extraordinary mentioned above will be supplied on Indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION INDIA

New Delhi, the 7th November 1958

S.O. 2445.—Whereas the election of Shri Amjad Ali as a member of the Lok Sabha from the Dhubri Constituency of that Sabha has been called in question by an election petition duly presented under Part VI of the Representation of

the People Act, 1951 (43 of 1951), by Shri Nazmul Haque, Town, P.O. and District Goalpara, Assam;

And Whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of section 86 of the said Act, for the trial of the said election petition has, in pursuance of the provisions contained in section 103 of the said Act, made a copy of its order in the said election petition to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said order of the Tribunal

RECORD OF THE MEMBER, ELECTION TRIBUNAL:
GAUHATI (ASSAM)

CORAM:—

Shri Ram Labhaya, Member, Election Tribunal, Gauhati.

Shri Nazmul Haque Petitioner

versus

Shri Amjad Ali Respondent

Shri Jahanuddin Ahmed

Shri Bibhuti Bhusan Sarkar Opposite parties under section 99.

Counsel for the petitioner—Shri S. M. Lahiri instructed by Shri A. Sarkar

Counsel for the respondent and Opposite parties—Shri N. C. Chatterjee and

Shri R. K. Bose.

JUDGMENT

The petitioner in this case has challenged the election of Shri Amjad Ali, opposite party, who was elected to the House of the People from H.P. 38-Dhubri Parliamentary Constituency. He has prayed (a) that the election of Amjad Ali be declared void; (b) that he be declared duly elected to the House of the People from the aforesaid Constituency; and (c) that the names of certain persons guilty of corrupt practices be recorded.

2. His case, as set forth in the petition, is as follows:—

(a) That he is a citizen of India and is an elector to the House of the People from the Goalpara Parliamentary Constituency. He was qualified to seek election to the House of the People. The H.P. 38-Dhubri Parliamentary Constituency was to elect a member to the House of the People. The polling was to take place on 25-2-57, 2-3-57 and 6-3-57.

(b) The Congress party selected the petitioner as their candidate. The Opposite party was selected by the Praja Socialist Party. Both were nominated after scrutiny of their nomination papers. The election symbol of the petitioner was 'two Bullocks with yoke on'. The Respondent was allotted 'hut' as his symbol.

(c) After the polling, votes were counted on 10th March 1957 and 11th March 1957. The petitioner polled 73,410 votes. The Respondent polled 1,01,303 votes and was declared elected on 11th March 1957 under section 66 of the Representation of the People Act.

(d) The Constituency in question consisted of 10 Assembly Constituencies. Six of these were within the District of Goalpara. The rest (four) were within the Garo Hills Autonomous District. In four, out of the six Assembly Constituencies of Goalpara District, namely: L.A. South Salmara, L.A. Gauripur, L.A. Mankachar, and L.A. Dhubri, the majority of voters were Muslims. In the remaining two constituencies of the District, there was a considerable proportion of Muslim voters. These voters were illiterate, simple and susceptible to false religious propaganda. The Respondent belonging to the minority community was responsible for carrying on mischievous propaganda on religious and communal lines personally, through his supporters, and the Assembly candidates of the Praja Socialist Party and also through independent candidates, and this led a vast majority of the electors of the minority community to vote for the Respondent who

would have voted for the petitioner, but for the objectionable propaganda carried on by the Respondent. They all carried on propaganda systematically through public meetings, group meetings and by individual contacts. The persons who carried on propaganda on the lines stated above, are said to be Jahanuddin Ahmed, Sahadat Ali, Seikh Md Azad Ali, Abu Fazal, Bibhuti Bhusan Sarkar, Santi Roy, Hussain Ali Pradhan, Capt. Williamson Sangma and others.

3. The campaign against the petitioner was alleged to be mainly on the following lines:—

- (a) Banning of cow sacrifice and cow slaughter by the Congress Government.
- (b) Stoppage of burial of Muslim dead bodies and their compulsory burning instead.
- (c) Compulsory singing of 'Ramdhun' by Muslim teachers and students.
- (d) Worship of Tulsi plant in the South Salmara Basic Training Institute.
- (e) Banning of Azan.
- (f) Shifting of 'Jumma' prayer from Friday to Sunday.

4. In paragraph 10, particulars are given with reference to dates and places of the propaganda carried on in public meetings and group meetings. No less than 29 specific instances have been alleged, and the particulars of the utterances made at the meetings have been stated. The character of the propaganda carried on generally at such meetings is the same as indicated above.

5. It is averred that as a result of the propaganda carried on, as indicated above, anti-Congress feeling was aroused amongst the Muslims and a large number of voters, who were inclined to vote for the petitioner, changed their minds in favour of the Respondent. This was due to the exploitation of their religious sentiments and susceptibilities. The respondent succeeded in creating an apprehension in their minds that their religious rights and freedom were not safe in the hands of the Congress Government and the Congress Organisation. The petitioner and the Congress Organisation tried to convince the voters of the false and illegal nature of the propaganda carried on by the Respondent and his supporters, but illiterate and simple-minded voters were carried away by the slogan that their religion was in danger.

6. In regard to the Garo Hills Constituency, the Respondent had the support of the Garo National Council candidates and particularly of Shri Williamson Sangma and Shamser Ali. The Respondent and the two supporters from Garo Hills exhorted the workers to refrain from voting for any of the Congress candidates, either for the Assembly or for the Parliamentary Constituency. An instance of the nature of the propaganda carried on in Garo Hills is given in paragraph 15 of the petition. It is alleged that there was a meeting on 11th February 1957 at Bhaidbari Inspection Bungalow where it was preached that the Congress was trying to Hindusee Muslims and had banned cow slaughter. Shri Williamson Sangma addressed the meeting and stated that Muslims were saved by the Garos in 1950 communal disturbances and, therefore, Muslims should vote for him and for Amjad Ali in the Parliamentary Constituency. Afazuddin Mandal, a supporter of Amjad Ali, who presided at the meeting, told the audience that the Congress Government had stopped cow slaughter which was incumbent on Muslims as a part of their religious duty, and that it was going to legislate for compulsory cremation of Muslim dead bodies. In the Assembly constituencies of the Garo Hills District, Laskars carried on propaganda for the Respondent. The Laskars have powers of general administration (Police, Criminal and Civil Justice) and they come within the definition of officers mentioned in clause (7) of Section 123 of the Representation of the People Act, 1951. The employment of Laskars constituted a corrupt practice.

7. The petitioner alleges that but for the votes obtained by the Respondent by corrupt practices, the petitioner would have secured the majority of votes and would have been elected.

8. Sayed Ali, an independent candidate from L.A. Golokganj Constituency, issued an appeal on 5th March 1957. It was addressed to Muslim voters. He represented that he was the only Muslim candidate for the L.A. Golokganj Constituency, and this was a direction from 'Khoda'. He also represented that the Congress Government had banned cow-sacrifice. This also helped the Respondent in the election.

9. It is further alleged that corrupt practices were committed by 9 persons named above.

10. Except for the statements made in the first seven paragraphs of the petition and the first part of paragraph 8, the written statement embodies a bald and a categorical repudiation of the allegations made by the petitioner in his petition. The statement that voters in the Goalpara District were illiterate, simple and susceptible to false religious propaganda, etc., is denied. The allegations about the nature of the propaganda alleged to have been carried on by the Respondent are also denied, and it is asserted that the allegation that he and his supporters, whose names are mentioned in paragraph 9, carried on communal propaganda, was totally false, though it is admitted that these 9 persons were supporting him. The allegations made about propaganda in meetings on different dates given in paragraph 10 of the petition, are all denied. It is not admitted that the Respondent was supported by the Garo National Council and Shri Williamson Sangma, or that he had any sectional support either from the Garo National Council or Shamser Ali. The statements made in paragraph 14 are repudiated. It is denied that Affajuddin Mandal was the supporter of the Respondent. In regard to the allegations about the proceedings of the meeting, the respondent disclaims knowledge. It is denied that the Laskars in Garo Hills come within the purview of section 123(7) of the Representation of the People Act. The Respondent also did not admit that the Laskars carried on any campaign on his behalf.

11. The claim that the petitioner would have succeeded if the propaganda attributed to the Respondent had not been carried on, is stoutly denied. The statements made in paragraph 18 about propaganda in the Golokganj constituency are also denied.

12. The Respondent alleges that he was a nominee of the Praja Socialist Party and carried on election propaganda, held meetings at different places on different dates, but not in the way and on the dates and places as mentioned in the petition. In his meetings, the Respondent tried to impress upon his audiences the programme and the goal of the Praja Socialist Party. No propaganda on communal lines was carried on, nor was any effort made to excite communal feeling.

13. The following issues were framed with the consent of the parties.

- (1) Whether the respondent and his supporters and workers carried on propaganda on religious and communal lines, as alleged, amounting to corrupt practices, within the meaning of Section 123(3) of the Representation of the People Act, 1951?
- (2) Whether corrupt practices alleged in the petition were committed by any person in the interest of the respondent, and, if so, whether the result of the election has been materially affected thereby?
- (3) Whether the election of the respondent to the House of the People from H.P. 38—Bhubri Parliamentary Constituency is void, for the alleged corrupt practices committed by him or by any person, as alleged?
- (4) Whether the respondent, through Shri Williamson Sangma, obtained the services of the Laskars in the Garo Hills for furtherance of his election prospects and, if so, whether the obtaining of such assistance is corrupt practice within the meaning of section 123(7) of the Representation of the People Act, 1951?
- (5) Whether corrupt practices were also committed by Jahanuddin Ahmed, Sahadat Ali, Seikh Md. Azad Ali, Abul Fazal, Bibhuti Bhusan Sarkar, Santi Roy, Hussain Ali Pradhani, Williamson Sangma, Shamser Ali, Afazuddin Mandal and Sayeed Ali and, if so, whether they should be so named as being guilty of corrupt practices, as alleged?
- (6) To what relief, if any, are the parties entitled?

14. The petitioner opened his case. He deposed to the correctness of allegations made in the petition. He himself did not attend any meeting. His knowledge was derived from reports he received about the nature of the propaganda carried on by Amjad Ali and others. The reports he received were oral. His reports to Shri S. C. Sinha and others were also oral. His case thus depends on the strength and the value of the evidence led by him in support of his own statement. He has relied on some documents as well. These shall be considered under appropriate Heads.

15. Specific instances in which corrupt practices are alleged to have been committed are given in paragraph 10 of the petition. The first instances is of a public meeting held at Fakiraganj M. V. School held on 16th January, 1957. This meeting was convened by Jahanuddin Ahmed, Praja Socialist candidate in L.A. 40 Bilashpara constituency, and other workers of the same constituency. The meeting was addressed by Amjad Ali, Respondent, Jahanuddin Ahmed and Bibhuti Bhushan Sarkar. It is asserted that they appealed to the voters to refrain from voting for the Congress candidates and to vote for the Praja Socialist party candidates on religious and communal grounds. Jahanuddin Ahmed referred to the rioting of February, 1956 at a place called Marishbari within the limits of Lakhipur Police Station and stated that some houses belonging to persons of the Muslim community were burnt down by persons of other communities belonging to the Congress party. He further said that such acts of oppression were committed at the instigation of the Congress party. Amjad Ali went to the rescue of the riot victims. Jahanuddin Ahmed, who was said to have produced a copy of the Holy Koran, had a certain portion of an Arabic text read out by Maulana Ahmed Ali, and explaining it told the audience that it enjoined cow sacrifice on Muslims—an obligation which they could not discharge as the Congress Government of Assam had banned such sacrifice and thereby interfered with the religious rights of the Muslims. Ahmed Ali protested against this interpretation, but he was not allowed to amplify his point. Amjad Ali also is said to have spoken on the subject of cow sacrifice and cow slaughter supporting Jahanuddin Ahmed. He added that a member of the Parliament belonging to the Congress party wanted to introduce a bill stopping burial of Muslim dead bodies, and it was at his intervention that the bill had been kept in abeyance. Amjad Ali also referred to Ramdhun Geet stating that singing by Muslim teachers and pupils of this Geet had been made compulsory in educational institutions by the Congress Government. He characterised it as a Hindu Geet with Hindu religious ideas. The words "Johi Allah Sho hi Ram" were explained by him as sacrilegious as Allah was sought to be brought to the level of Ram, which injured the religious feelings of the Muslims. Bibhuti Bhushan Sarkar also in his speech denounced the Congress party for interfering with religious rights of the Muslims and said that though he was, a Hindu, he felt that a great wrong had been done by stopping cow slaughter and sacrifice by legislation.

16. The petitioner has examined three witnesses about this meeting. They are P.Ws. 12 Makhan Lal Biswas, 13 Abdul Samad Choudhury and 61 P. K. Chakravarty. The Respondent has examined two witnesses. They are R. 5 Asaruddin and R. 6 Alimuddin Mullah.

17. Makhanlal Biswas P.W. 12 is a goldsmith. He deposed that when he arrived, Amjad Ali was addressing the meeting. Amjad Ali told the audience that the Cattle Preservation Act had been passed and cattle under the age of 14 could not be slaughtered. Besides permission of the Veterinary Surgeon was necessary for slaughter. He heard Bibhuti Sarkar preaching on Saturdays and Tuesdays after the Hat meetings that the Congress regime had banned cow sacrifice. He also told the people that recitation of Ramdhun Geet was against Islamic religion. This witness has not stated anything about Jahanuddin Ahmed's speech. His version of Amjad Ali's speech is somewhat different from petitioner's. He has also said nothing about Bibhuti Sarkar's speech in the meeting.

18. P.W. 13 is Abdul Samad Choudhury. He heard Jahanuddin Ahmed addressing the meeting. Jahanuddin Ahmed recited from the Holy Koran and explained that cow sacrifice was enjoined there, and added that the Congress Government had prohibited it. He offered the Koran to any one who wished to make sure if he was right. A Maulavi from the audience got up and interpreted verses read in a different way. Jahanuddin Ahmed intervened and supported the interpretation, he himself had placed. The witness further deposed that Jahanuddin Ahmed referred to the Morishbari incident and said that Muslim houses were burnt down by the Congress Government. About Amjad Ali's speech the witness deposed that he preached that the Cattle Preservation Act had prohibited sacrifice of cows below 14 years of age. Permission had also to be obtained for such sacrifice. This could be asked for by a stamped application, and this amounted virtually to prohibition of cow sacrifice. According to this witness, Amjad Ali also referred to the Ramdhun Geet which he had heard being sung at Sonth Salmara. This he characterised as un-Islamic.

19. The statement in regard to Jahanuddin Ahmed's speech is not identical with the allegations made in the petition. The version is different; but it does bring out that Jahanuddin and Amjad Ali referred to the Cattle Preservation Act, and though in different ways, they impressed on the audience that its effect

was to prohibit cow sacrifice and slaughter, and this constituted interference with religion. The reference to Ramdhun Geet also lends support to the allegations made in the petition.

20. This witness stated when first examined on 26th that he was a member of the Congress. On further cross-examination on 5th July, he admitted that in Bazlul Basit's petition he had deposed that he was not a congress member. His explanation of the two contradictory statements is absurd. In that statement he did not state anything about Fakiraganj meeting. It has been pointed out by Mr. Bose that Ahmed Ali referred to by the witness in his statement has not been examined.

21. P. K. Chakravarty (witness No. 61) is the third witness. He stated that he attended one meeting at Fakiraganj and heard Bibhuti Sarkar and Sahadat Ali addressing that meeting. According to him, the meeting at Fakiraganj was held in February, probably on 22nd or 23rd. He further deposed that he had heard of a report that there was a Praja Socialist Party meeting at Fakiraganj sometime in January in the M. V. School. The witness was admittedly not present in that meeting of 16th January, and, therefore, has made no statement about it. The meeting alleged to have been held at Fakiraganj in February was not specifically mentioned in the petition. I have not relied on his evidence about this meeting.

22. R.W. 5 is Asaruddin Ahmed Pandit. He stated that he was a teacher and secretary of the Co-operative Society at Fakiraganj. The witness gave a gist of the speeches of Jahanuddin Ahmed, Amjad Ali and Bibhuti Sarkar. According to him, they spoke of matters which had nothing to do with religion or religious beliefs of any community or about interference with them by the Government or the Congress Party. He admitted that his society could do no work for want of funds and also stated that they had come into contact with the Praja Socialist party at elections. Alimuddin Molla (R.W. 6) supported this witness. He claims not only membership of the Co-operative society, but also of the Congress. On this point his statement does not seem probable.

23. The allegations made in paragraph 10(2) have not been proved. No witness was examined by the petitioner to prove that Amjad Ali, Jahanuddin Ahmed and Bibhuti Sarkar were responsible for the utterances attributed to them. All that the learned counsel for the petitioner could say was that Amjad Ali admitted in his statement in Court that a meeting had been held at Barkakali but that, by itself, does not advance the petitioner's case any further.

24. The third meeting was said to have been held at Jaleswar on 20th January, 1957. The allegations made about this meeting briefly are as follows:—

(1) The meeting was addressed by Amjad Ali, Jahanuddin Ahmed, Bibhuti Sarkar, Sahadat Ali, Abdur Rahman, and Maulavi Abul Hussain.

25. Amjad Ali spoke about the banning of cow sacrifice and cow slaughter. He also referred to Ramdhun Geet which, he said, was un-Islamic, and the compulsion about its recitation. He also talked about a bill which aimed at preventing burial of dead bodies of Muslims, and impressed on the voters that, to safeguard their religion, they should vote for P.S.P. candidates.

26. Jahanuddin Ahmed exhibited a burnt copy of the Holy Koran and said that it had been burnt by Congress at Marishbari when Muslim houses were burnt there. He also spoke of other matters referred to by Amjad Ali. Sahadat Ali also spoke about all these matters and observed that these acts had violated religious rights of the Muslims. Bibhuti Sarkar condemned the banning of cow sacrifice, referred to the attempted banning of burial of Muslim dead bodies and asserted that Muslim teachers who were undergoing training in the Basic School at South Salmara were being forced to worship Tulsi plant.

27. Five witnesses were examined by the petitioner and two by Amjad Ali in regard to this meeting. P.W. 4 Abul Hussain Mandal has made a long statement about what happened at this meeting. According to him, Bibhuti Sarkar told the audience that the congress passed laws which encroached on Muslim rights. He particularly referred to the Cattle Preservation Act which restricted beef eating by Muslims. He also stated that the Congress Government had directed singing of Ramdhun Geet and was thus making Muslim students irreligious. He referred to the bill aiming at restraining Muslims from burying their dead, though the attempt proved abortive. Sahadat Ali also addressed the gathering. He supported the previous speakers. Jahanuddin Ahmed also referred to restrictions on the slaughter of cows by the Muslims,

and the introduction of the recitation of Ramdhun Geet in Schools, which interfered with the religious beliefs of Muslims. The Marishbari incident was referred to by him, and also the burning of the Holy Koran by Hindus. Amjad Ali talked of his achievements in the Parliament and claimed that he had taken up the matter of Ramdhun Geet with the Government. He also talked of the bill aiming at prohibition of the burial of dead bodies by Muslims. He made comments on the Cattle Preservation Act, hinting that it restricted their existing rights in the matter, and also suggested that expenditure in money may be necessary to procure permission for slaughter of cows. This witness is admitted by an active Congress worker.

28. Md. Siddeque Hussain is P.W. 5. He said that Sahadat Ali addressed the audience first. He told them that the Congress Government had ordered that Muslim students should sing Ramdhun Geet. He further stated that a bill with the object of preventing Muslims from burying their dead bodies was introduced in Parliament, but it could not be carried through. He further stated that Bibhuti Sarkar told the audience that though he was a Hindu, he agreed with Sahadat Ali that the measures to which he had referred, were against Muslim interests. The witness left after hearing these two speeches. He is a student. He did not hear Jahanuddin Ahmed's speech.

29. Hazi Raisuddin Ahmed is P.W. 14. He said that Bibhuti Sarkar, when addressing the meeting, said that cow slaughter had been prohibited in plain Districts only. Muslim boys were being forced to recite Ramdhun Geet. It was likely that Jumma prayers may have to be said on Sundays instead of on Fridays. He also referred to the attempt at legislation prohibiting the burial of dead bodies by Muslims and put it to the audience whether they would vote for the Congress which was responsible for such inroads into their religious beliefs and practices. Sahadat Ali supported Bibhuti Sarkar.

30. Jahanuddin Ahmed the next speaker, referred to the Marishbari incident and showed a partially burnt Koran. He threw responsibility for what had happened in Marishbari on Congressmen. Amjad Ali, whilst recounting his achievements, told the audience about the bill to stop burial of Muslim dead bodies and claimed that the bill had been thrown out as a result of the opposition by him. He also repeated other incidents discussed by previous speakers, particularly about the prohibition of cow slaughter, and the likelihood of Jumma prayers being shifted to Sundays. Compulsion about the singing of Ramdhun Geet also was commented on. This witness admitted that he had been a congress worker for ten or twelve years.

31. P.W. 15 is Lal Mia. He has also deposed about the Jaleswar meeting. According to him, the speeches followed a set pattern. The speakers appealed to the audience for voting for P.S.P. candidates telling them that if they voted the Congress back to power, they would legislate for prohibition of cow slaughter and burning of dead bodies of Muslims. They would also shift Jumma prayers to Sundays. They were already compelling Muslim students to sing Ramdhun Geet. This, according to the witness, was the trend of the speeches, though different speakers elaborated these points in their own way. The witness stated, in particular, that the respondent referred to the attempted prohibition of cow slaughter by the Parliament which he, by his efforts, had succeeded in preventing. This witness also is admittedly an active member of the Congress. He could not say how many persons addressed the Congress meeting, nor could he reproduce their speeches except one or two matters referred to by Shri Fakharrudin Ali Ahmed.

32. P.W. 16 is Abul Kasem. This witness supported the previous witnesses and deposed that Bibhuti Sarkar referred to the prohibition of cow slaughter, compulsion about the recitation of Ramdhun Geet, and the prohibition of burial of the dead by Muslims. He told the audience that they will have more measures of this kind if they voted for the Congress. There was interference with their religious beliefs which he even, as a Hindu, could not tolerate. Sahadat Ali, according to him, supported the previous speakers. Jahanuddin Ahmed spoke in the same strain as in meetings referred to above, according to this witness. The respondent said that the burial of dead bodies of Muslims had been stopped, and this would continue unless the P.S.P. candidates were supported.

33. Dulal Chandra Halder (W. No. 28), and Ajmat Ali (W. No. 29) are witnesses of the Respondent about the Jaleswar meeting. They said that Amjad Ali, Jahanuddin Ahmed, Bibhuti Sarkar and Sahadat Ali addressed the meeting. A Maulavi asked if there was any law prohibiting cow killing. Amjad Ali told

him that during 4 or 5 days of the Id festival, cows could be slaughtered with permission if they were more than 14 years of age. According to him, no appeal was made to voters on communal or religious grounds.

34. Ajmat Ali claimed that he had been president of the Bashamara Congress Committee for the three previous years. The witness admitted that he had been arrested by the Police once, and the matter had been compromised. He denied that he was a P.S.P. worker.

35. The next meeting is said to have been held on 23rd January, 1957 at South Salmara Bazar in L.A. 32 South Salmara constituency. This meeting is said to have been addressed by Jahanuddin Ahmed, Amjad Ali, Bibhuti Sarkar and Abdul Karim Manda. Amjad Ali condemned anti-Islamic activities of the Congress Government and Congress party. These were prohibition of cow slaughter, attempts to stop burial of Muslim dead bodies, and compulsion about singing of Ramdhun Geet. The appeal to voters was on grounds of religion. Bibhuti Sarkar also talked in the same strain and particularly mentioned about worship of 'Tulsi' plant which was being forced on Muslim teachers in the Basic Training Institute at South Salmara. He raised the cry of Islam in danger under the Congress Government. Abdul Karim said that the Congress Government had wounded the religious feelings and sentiments of Muslims by compelling them to sing Ramdhun Geet. Jahanuddin Ahmed also referred to the ban placed on cow slaughter and sacrifice by the Congress Government, which involved interference with Koranic injunctions. He referred to a text from the Holy Koran showing that it enjoined such sacrifice. He also exhibited a burnt copy of the Holy Koran as before.

36. Duli Chand Agarwal (P.W. 9), Gandu Mandal (P.W. 10), and Polen Dewani (P.W. 11) are three witnesses of the petitioner who have deposed about this meeting. P.W. 9 is a primary member of the Congress. He deposed that Jahanuddin Ahmed said that cow slaughter had been prohibited by law. He tried to have the law repealed, but had not succeeded. Bibhuti Sarkar, according to this witness, also said that cow slaughter had been prohibited and that this interfered with the rights of the Muslims. He also spoke about the unsuccessful attempt to prevent burial of the dead by Muslims. He also told the Muslims that they will have to worship 'Tulsi' plant in their houses if the Congress were voted to power. According to him, Abdul Karim said that students in the South Salmara Training School were being made to sing Ramdhun Geet, and, in this Geet, Allah had been placed on a level with Rama, which was anti-Islamic.

37. Gendu Mandal said, amongst other things, that Bibhuti Sarkar referred to the Marishbari incident also in his speech stating that Congressmen had burnt the houses of the Muslims and had driven them away. In regard to Abdul Karim, the witness supported the previous statements. This witness admitted that some three years before he had paid four annas as subscription for membership of the Congress.

38. The attendance of this witness for further cross-examination was not possible to secure without delay which in the circumstances of the case did not seem justified. With the consent of the parties the testimony of the witness has been excluded from consideration against Jahanuddin Ahmed and Bibhuti Sarkar.

39. Polen Dewani deposed that Amjad Ali stated that cow slaughter had been practically stopped. Children of Muslims were being made to sing 'Ram Krishna'. Abdul Karim also said the same. Amjad Ali said that he had taken up the matter with the authorities at Delhi. Bibhuti Sarkar told the audience that before they voted for the Congress, they should have 'Tulsi' plant with them, as they shall have to worship it. In addition to the ban on cow slaughter, he said that Jumma Prayers will have to be offered on Sundays instead of on Fridays, and Azan also will be prohibited. This witness did not hear Jahanuddin Ahmed's speech. Amjad Ali produced two witnesses who deposed about this meeting. They are Asamatulla Bepari (R.W. No. 14) and Khoda Baksh (R.W. No. 15).

40. Asamatulla Bepari deposed that Abdul Karim asked if it was true that cow slaughter had been banned. Amjad Ali told him that there was no restriction on cow slaughter on Id days; but on other days, cattle above 14 years of age could be slaughtered with permission, and this law had not interfered with Muslim religion. Khoda Baksh supported him. He stated in cross-examination that his brother, Abdul Karim, had agitated against the singing of Ramdhun Geet and he had approached Amjad Ali for assistance. He had also signed a

representation sent to him. He also stated that he was a member of the Congress party and was petitioner's polling agent. He had requested Amjad Ali to explain the significance of the Cattle Preservation Act.

41. In para. 10(5), it is alleged that a meeting was held at Chunnari on 21st January, 1957 in 32 South Salmara constituency. It was addressed by Amjad Ali, Jahanuddin Ahmed, Sahadat Ali and Bibhuti Sarkar.

42. All four are alleged to have appealed to voters to vote against the congress and vote for the P.S.P. Their speeches followed the set pattern. They were impressing on the audience that Congress, by banning cow slaughter and sacrifice, by banning or attempting to ban burial of the dead by Muslims and forcing 'Ramdhun Geet' on Muslim teachers and students, was trying to Hinduise the Muslims. Amjad Ali at this meeting laid emphasis on the fact that the Cattle Preservation Act had not been applied to Hills where beef-eating was common, and its application was restricted to plains Districts only in order deliberately to encroach upon the religious freedom of the Muslims. Jahanuddin Ahmed, as usual, referred to the burning of Koran read from it and urged that cow sacrifice was enjoined. Maulavi Danish Ali protested, but he was not allowed to speak. Sahadat Ali said nothing distinctive though he supported the appeal.

43. Shamsul Haque (P.W. 17) was the 1st witness of the incident. He has supported the allegations in this petition in a general way, though in the case of Bibhuti Sarkar, he said that he referred to the Marishbari incident, which does not appear to have been attributed to him in the petition. To Amjad Ali, he attributed the statement that the bill to stop burial of the dead had been postponed as a result of his efforts. This is more than what he is alleged to have said in the petition. The witness is admittedly an active member of the Congress.

44. Abdul Bari, P.W. 18, deposed that he was present in the Chunnari meeting. According to the witness, Amjad Ali said that he had succeeded in getting the bill aiming at stoppage of burial of the dead thrown out by the Parliament. He exhorted the voters to vote for the P.S.P. candidate to protect their own religion. Jahanuddin Ahmed urged that cow sacrifice had been prohibited by the Congress Government, and, therefore, Islam was in danger if the Congress remained in power. This witness is a four-anna member of the Congress. He did not depose about Bibhuti Sarkar, but P.W. 25 admitted that Bibhuti Sarkar discussed the Cattle Preservation Act.

45. Amjad Ali has produced two witnesses of the meeting, namely; Dr. Gopal Chandra Saha, P.W. 25, and Birendra Nath Chakravarty—P.W. 26. Both supported Amjad Ali's version of the case. Dr. G. C. Saha admitted that Cattle Preservation Act was discussed at the meeting. Amjad Ali, Bibhuti Sarkar and Jahanuddin Ahmed discussed it. The argument that Bibhuti Sarkar could not attend this meeting is completely answered by this statement. The witness claimed to be a member of the Primary Committee for three years and a registered medical practitioner. He admitted that the Mandal Committee had been formed and he was not a member of the Mandal Committee. He also admitted he was not a registered medical practitioner. He attended a Congress meeting and cannot say what was said there.

46. B. N. Chakravarty could not tell when asked about the implications of the Cattle Preservation Act, but admitted that Amjad Ali, Bibhuti Sarkar and Jahanuddin Ahmed talked about it.

47. The learned counsel for the petitioner did not address the Court at all on allegations made in paras 10(6), 10(7) and 10(8) of the petition.

48. The ninth meeting was said to have taken place at Gutipara in the house of Shamsher Ali in Gutipara Constituency on 27-2-57. Amjad Ali, Md. Azad Ali and Santi Roy are alleged to have carried on propaganda on communal lines. Amjad Ali spoke about the attempted ban on burial of the dead by Muslims and said that the bill had been kept in abeyance. He referred to Ramdhun song which was sacrilegious for the Muslims to sing, and also said that at Marishbari, Muslim houses were burnt at the instance of the Congress.

49. No specific allegations were made about Azad Ali who is said to have appealed to voters on communal grounds. Santi Roy and Md. Azad Ali are said to have charged the Congress party and Congress Government with having interfered with the religious rights of Muslims.

50. Four witnesses, namely; Hussain Ali (34), Juran Ali (35), Abdul Gani (36) and Huranuddin Sarcar (37), were examined on behalf of the petitioner about the meeting. Hussain Ali said that Amjad Ali talked about the Marishbari incident and blamed the Congress for it. He also spoke about a song called 'Ram Mangal' or 'Ram Lila', saying it was compulsory for Muslims to sing it. He also lamented the fact that it was not possible for Muslims to sacrifice cows at pleasure. He told the audience that a law preventing the Muslims from burying the dead was about to be passed. Azad Ali and Santi Roy supported him.

51. The witness denied having embezzled any money belonging to a Traders Co-operative Society of which he was the Secretary, but admitted that, on a check up, his cash was found short and he made up the deficiency.

52. Turan Ali (35) has merely stated that he heard some people saying that as a law was being passed by the Congress about stopping burial of the dead by Muslims, they could not vote for the Congress. The witness admitted that he was convicted in a dacoity case and was arrested in connection with another though not chargesheeted.

53. Abdul Gani deposed that Amjad Ali said that the Congress Government was able to prohibit cow-sacrifice and to stop burial of the dead by Muslims. They were also forcing Muslims to sing Ramdhun Geet. He referred to the Marishbari incident. Santi Roy and Azad Ali spoke in the same strain. The witness stated that his father did not attend the meeting. Hasemuddin Sarkar said that Amjad Ali told the audience that burial of their dead would be stopped. Muslims were being made to sing Ramdhun. He referred to Marishbari incident.

54. Amjad Ali examined only one witness in rebuttal of petitioner's testimony about this meeting. He is Shamsher Ali (R.W. 11). He stated categorically that there was no meeting at Gutipara in his house or in its neighbourhood though Amjad Ali, Azad and Santi Roy stayed with him for one night.

55. The tenth meeting is alleged to have been held at Gauripur—Goahata.

56. This meeting is alleged to have been held on 12-1-57. This was in L.A. 39—Gauripur constituency. The speakers were Jahanuddin Ahmed (President), Bibhuti Sarkar, Santi Roy, Hussain Ali Pradhan. They are alleged to have systematically appealed to electors in the name of religion.

57. Amjad Ali is said to have referred to the bill to stop burial of the dead saying that it was kept in abeyance, and would become law if he were not returned. He also referred to the Marishbari incident and Ramdhun song, commenting on them in a way suggestive of interference with their religion by the Congress Government.

58. Hasem Ali, Md. Azad Ali, Santi Roy, Bibhuti Sarkar all spoke in the same strain and appealed to religious sentiments. Jahanuddin Ahmed followed his set pattern.

59. No less than six witnesses of the petitioner have deposed about this incident. The first is Safaruddin Sarcar (No. 28). He deposed that Amjad Ali spoke about the bill to prevent burial of the dead by Muslims, which had not been passed as a result of his efforts, the burying of Muslims houses at the instance of the Congress, and compulsory singing of Ramdhun. Jahanuddin Ahmed emphasised the Congress had prohibited cow slaughter which interferred with their religious freedom.

60. Shri Fakharuddin Ali Ahmed addressed a congress meeting to counteract the propaganda.

61. The witness admitted that he had been chargesheeted for forgery and cheating; so was Maksed Ali, the next witness. He denied that he was dismissed from Police Service and stated that he had resigned his job. He admitted he was working for the Congress and also for the petitioner. He made contradictory statements on the question whether he was discharged from service or had resigned, but was forced to admit on further cross-examination that he had been discharged.

62. Maksed Ali's (P.W. 29) statement is substantially the same in spite of some variations here and there. Maulavi Fakharuddin Mandal (P.W. 30) is the next witness of this series. The witness stated briefly that Amjad Ali said that the Congress had banned cow sacrifice, and an attempt by the Congress Government to prevent Muslims from burying their dead had not succeeded on account of his opposition. Both Amjad Ali and Jahanuddin Ahmed spoke about Marishbari

incident. They said that Muslim houses were burnt at the instigation of the Congress. Others, according to the witness, spoke in the same strain. The witness deposed further that speakers asserted that the Congress was striking at the root of Islam, and this view was supported by quotations from Koran Sharif. The witness could not say if Abdul Bari's father and his father were first cousins. On further cross-examination he admitted that they were cousins. He could not say whether they were first cousins or distant cousins. The answer is evasive.

63. Isaf Khan (P.W. 31) generally supported the charge of appeal on religious ground. He said that a village, possibly 'Jhalikbari' by name (meaning Marishbari) was said to have been burnt at the instance of the Congress, and was vague about a song which was said to be objectionable. Abdul Bari Sarcar (P.W. 32) is a pleader. He was a Congress candidate for Gauripur constituency. His statement relates in the main to a Congress meeting. He did not say anything about the P.S.P. meeting at Gauripur—Gohata. He stated that he was defending Safaruddin and Maksed Ali, and also deposed that the Muslims were not aware of the Cattle Preservation Act until P.S.P. members, including Amjad Ali, Jahanuddin Ahmed and others of their ilk began talking about it, to the people. He learnt in November, 1956 that P.S.P. were planning to make this Act a plank in their election campaign. On further cross-examination he stated that Ramdhun Geet was not against Shariat in his view.

64. Abul Kalam Azad (P.W. 45) has also deposed about the meeting. He said that at the meeting, ban on cow-killing, compulsion about the singing of Ramdhun, and also a law preventing Muslims from burying their dead being in the offing, were discussed. Jahanuddin Ahmed referred to Marishbari incident in the usual way and said with reference to Koran that cow sacrifice, which has been prohibited, was obligatory. This witness was appointed teacher in Gauripur High Madrassah with effect from 20th May, 1957. Abdul Bari is the secretary of the Managing Committee of the School. The witness further stated that Ramdhun was being sung in the Primary section of the Madrassah at Gauripur. He did not know the text of the song, but said that it placed Ram and Allah on the same level. He admitted having appeared as a witness for Abdul Bari in his case.

65. No specific reference to Bibhuti Sarkar's speech was made by this witness. What is stated is that he was amongst the speakers and appealed to voters on the lines of the other speakers.

66. Two witnesses, namely; Sahabuddin Ahmed (R.W. 16) and Bashiruddin Ahmed (R.W. 7) were examined about this meeting by Amjad Ali. Sahabuddin Ahmed is a member of the Managing Committee of an old School Madrassah, a supervisor of the Defence party, and a managing member of the Village Co-operative Society. He attended the Gauripur meeting. He deposed that on his question, Amjad Ali explained the import of the Cattle Preservation Act. He admitted that Marishbari incident was discussed.

67. Bashiruddin (R.W. 13) is a teacher in Islamia Madrassah at Changbranda and also a member of the managing committee of the village school. He also deposed that on a question by the preceding witness, Amjad Ali explained the significance of the Cattle Preservation Act, but added that he did not say anything about the Marishbari incident.

68. In regard to the meeting, the parties are at logger heads about its date. The petitioner and his witnesses have adhered to the statement that the meeting was held on 12th January. The case of the respondent and the opposite parties summoned under section 99 of the Act, is that the meeting was held on 25th January. Mr. Bose has argued that the petitioner was misled by the poster for the meeting which announced the meeting for 12th January. He has led evidence to show that there was rain on the 12th January and the meeting though announced could not be held on that day. The evidence on the point is not helpful. An assistant of the Civil Surgeon Office has been examined who deposed that his record showed some rainfall at Dhurbri on 12th January. He could make no statement about the time of the rain and had no record of rain at Gauripur. The only other witness examined on the point by the opposite parties is Md. Oudrat Ullah. He supports their version. He admitted that Azad's younger brother is Shakat. His sister was married to Shakat and Azad was a P.S.P. candidate for Gauripur. He admitted further that Abul Fazal, Jahanuddin Ahmed, Bibhuti Sarkar, Santi Roy and some others went to his shop on 12th January.

69. In regard to the date we have petitioner's witnesses four in number. We have their word against the witnesses of the opposite parties. The date loses great deal of its significance when it is common ground that a P.S.P. meeting was held at Gauripur in which Cattle Preservation Act at least was discussed.

70. No argument has been addressed on the allegations contained in paras 10(11) and 10(12) of the petition, from either side.

71. On 14-2-57, a public meeting presided over by Maulavi Omar Ali was said to have been held in Goalachar L. P. School. Jahanuddin Ahmed and Amjad Ali spoke, accusing the congress Government of enforcing by law stoppage of cow sacrifice and cow slaughter and of burial of Muslim dead bodies, and also the banning of Azan and Namaz, and the compulsory singing of Ramdhun Geet. Bibhuti Sarkar did not address this meeting.

72. The averment about this meeting receives substantial support from the statements of three witnesses, namely,—Goyeshuddin (P.W. 42), Mokbul Hussain (P.W. 43), and Nurul Islam (P.W. 44). Goyeshuddin was cited as a witness by both parties. He has supported the case set up by the petitioner. Respondent has himself admitted that the Cattle Preservation Act was discussed in this meeting, though in para. 18 of the written statement, he denied both the meeting and the utterances attributed to him and Jahanuddin Ahmed. Nurul Islam (P.W. 44) deposed on further cross-examination that the Ramdhun Geet was against the tenets of Islam.

73. Tahiruddin (R.W. 9) deposed that Amjad Ali explained the import of the Cattle Preservation Act on being interrogated about it. He also referred to a talk about prohibiting cow slaughter at Delhi. He deposed that he gave greater importance to religion than to matters political and economic. Mensubuddin (R.W. 10) supported the previous witness and admitted that if cow sacrifice or slaughter is banned it would interfere with Muslim religion. He added that Amjad Ali also said so.

74. On 15-2-57, a public meeting was said to have been held at Kadamtala L. P. School, at which Jahanuddin Ahmed is alleged to have said that the Congress Government had been following a policy of gradually doing away with Islam by banning cow sacrifice, stopping burial of their dead by Muslims, which might be enforced in the near future, and in other ways. He said that if Congress continued in power, Muslims might be compelled to worship like Hindus. Amjad Ali supported him. Hafizuddin supported both by reference to Quaranic texts.

75. Two witnesses, namely; Sahadat Hussain (P.W. 58) and B. Beliram Sonar (P.W. 59) supported the petitioner in regard to this meeting. Sahadat Hussain deposed that Amjad Ali, Jahanuddin Ahmed, and Hafiz-Nur Ahmed spoke at the meeting. It was said that cow sacrifice had been stopped. If Congress were returned to power, the Muslims shall have to cremate their dead. Call to prayer would also be stopped. The statement of P.W. 59 is also very nearly to the same effect. Sahadat Hussain deposed about three meetings namely; Bilashipara, Bengalipara, and Kadamtala. He was a Congress worker and was getting travelling allowance from the Congress for Election work.

76. Amjad Ali has examined three witnesses about the alleged Kadamtala meeting. They are—Shukur Ali Munshi (R.W. 27), Ilimuddin Sheik (R.W. 30), and Sahar Ali Munshi (No. 31). All three have deposed that no election meeting was held at Kadamtala. Sahar Ali (No. 31) has admitted that he was convicted in a criminal case and fined Rs. 25/- once and had been prosecuted for getting the wife of some one married to another. This case was said to have filed in default.

77. This is the first instance in which denial about the holding of a meeting has been sought to be proved by evidence.

78. Mr. Bose has pointed out that according to the petitioner the meeting was held on 15th February. Evidence led shows it was held on 16th February. Since the allegation in the petition are based on information received, a mistake like this is not unlikely.

79. No argument has been addressed on the allegations contained in paras. 10(15) and 10(16) of the petition. The learned counsel for the petitioner did not refer to any evidence by which these specific instance were sought to be proved.

80. On 28th February, 1957, a public meeting was alleged to have been held in the Bengalipara H. E. Nadrassah by the P.S.P. Both Jahanuddin and Amjad Ali addressed the meeting. Both said that cow slaughter had been banned, the Congress party had planned the stoppage of burial of dead bodies of Muslims, and would probably stop Azan and Namaz if not opposed at the election. They also referred to the Ramdhun Geet, urging that it was un-Islamic. Nur Ahmed lent support to them by reference to texts from Holy Quoran.

81. Two witnesses, namely; Abu Bukar (P.W. 57) and Sahadat Hussain (P.W. 58) were examined by the petitioner about the meeting. Abu Bukar deposed that Amjad said that if the voters did not vote for the opposition, they shall be prohibited from sacrificing cows. Burial of the dead would also be prohibited, and Ramdhun Geet shall have to be sung by all. Jahanuddin Ahmed said the same, and both were supported by Hafiz Nur Ahmed. Sahadat Hussain said that Amjad Ali stated that the Congress had stopped cow sacrifice. They would prevent burial of the dead by Muslims, and call to prayer would be banned.

82. Amjad Ali examined two witnesses, namely; Kalim-Uddin Munshi (R.W. 19), Shukar Mohammad Bepari (R.W. 21). Kalimuddin said that he had heard of the Cattle Preservation Act from various sources, but it was not discussed in this meeting at Bengalipara. He admitted that his house had been searched by the Police in his absence, and that he was an accused in a complaint case, the charge against him being that he, with others, had tortured Shafat and obtained from him the divorce of his wife. Shukur Mohd. Bepari is related to Kalimuddin. He supported him. Their depositions tend to show that there was no appeal to voters on communal or religious grounds.

83. No argument has been addressed on meetings alleged in paragraphs 10(18) and 10(19), and no evidence bearing on them has been referred to.

84. On 5-3-57, Bibhuti Sarkar is said to have addressed a large gathering at Bilashipara Hat with the aid of a loud speaker. He denounced the Congress Government and the Congress Party representing that the Congress was an enemy of the Muslims, as it had encroached on the religious freedom of Muslims by stopping cow slaughter and burial of Muslim dead bodies. He swore in the name of Goddess Kali that if the Muslims voted for the Congress, they would not remain Muslims and would have to worship like the Hindus. Three witnesses have been examined about this meeting. Sahadat Hussain (P.W. 58) is the first of the series. He deposed that Bibhuti Sarkar had a mike. He told about 10 to 15 thousand people who had gathered there that the Congress had banned cow sacrifice. He swore by Goddess Kali that if the Congress were returned to power, Muslims will have to cremate their dead bodies, and Islam would vanish. The witness stated that he reported what he had heard to Omaruddin who took notes of what he stated.

85. Sonahar Ali Goanbura (P.W. 60) is the next witness. He heard Bibhuti Sarkar addressing people over the mike at Bilashipara Hat. He said that Muslim dead bodies will have to be cremated if the Congress were voted to power. Muslims shall also have to follow Hindu customs and manners.

86. Mofizuddin (P.W. 62) is the last witness of the series. He deposed that Bibhuti Sarkar said at this meeting that the Congress had stopped cow killing and cow eating and they would stop burial of dead bodies by Muslims. In Delhi, a Law had been passed to that effect and the Congress had been Hinduising Muslims.

87. Amjad Ali examined Sk. Mohammad Bepari (R.W. 21) about this meeting. The witness stated that there was a meeting at Bilashipara. He deposed that Amjad Ali addressed the meeting but did not make any appeal on religious grounds. He admitted, in cross-examination, that Bibhuti Sarkar addressed the people from a car at Bilashipara, but did not state what he said. The witness stated that Kariumddin was not related to him, but admitted that he was removed from the office of Secretary on account of mis-appropriation of Rs. 399/-, B. C. Das the 3rd witness of the opposite party admitted that Bibhuti Sarkar addressed the people at the Bilashipara Hat with the aid of a mike, but he did not appeal to voters on religion or communal grounds. His statement, however, was qualified by the admission that he did not hear the whole of his speech. The 4th March, 1957, was a 'Hat' day at Lakhiganj Bazar. Jahanuddin Ahmed, Amjad Ali, Ismail Hussain, Azad Ali and Sahadat Ali, who were workers and supporters of P.S.P., attended the 'Hat'. Jahanuddin Ahmed, Amjad Ali and Ismail Hussain addressed the people. They dissuaded the people from voting for the Congress Government, as it had been responsible for stopping cow slaughter and cow sacrifice. They also asserted that it would stop burial of Muslim dead bodies, ban 'Azan' in the Mosques, and that it had also introduced 'Ramdhun' in schools to insult the Islamic faith. Muslim women will have to put vermilion marks like Hindu women on their foreheads, and unless Moslems voted for the P.S.P. candidates, their religion would be in danger. The same evening, Sahadat Ali and Bibhuti Sarkar addressed the people at Lakhiganj and spoke in the same strain.

88. Teleb Ali Ahmed (P.W. 55) was one witness who was examined about this meeting. He is a school master. He stated that Jahanuddin Ahmed, Amjad Ali, Ismail Hussain, Sahadat Ali, and Bibhuti Sarkar addressed the meeting. Amjad

Ali said that the Congress Govt. had banned cow eating and cow sacrifice. 'Ramdhun Geet' was being sung in schools. It was against the tenets of Islam, and if the congress were voted to power, the call to prayers (Azan) would also be banned. Dead bodies of Muslems will have to be cremated. Other speakers repeated all this.

89. Bibhuti Sarkar said in addition that in future the Congress would require vermilion marks on the foreheads of Muslem women—a step in the process of Hinduising Muslem women. This witness is a teacher in a Government aided school at Lakhiganj.

90. Maksed Ali, brother of Omaruddin, was the Head Master of the School at the time of the polling, and he was a congress candidate from Bilashipara constituencies. This witness denied having proposed Maksed Ali. Ismail Hussain witness No. 4 of the opposite parties has identified his signature on the nomination paper.

91. Majibur Rahman (P.W. 56) is another witness about this meeting. He deposed that Amjad Ali said that Congress had stopped cow sacrifice. He supported the previous witness.

92. Panchananda Nath (P.W. 46) is the third witness of this series. He heard Ismail and Bibhuti Sarkar saying that the Congress had stopped cow killing and that there was a bill in the Parliament to prevent Muslems from burying their dead. They referred to the 'Ramdhun Geet' as anti-Islamic. The witness is a member of the Congress party. He is also the president of the Mandal Committee of the Congress. He conveyed what he had heard to Sarat Ch. Singha, president of the Congress Committee. He also admitted that 'Ramdhun Geet' was being sung in the primary schools in his locality.

93. Amjad Ali examined two witnesses,—(1) Safiure Rahman (No. 24) and (2) Beru Md. (No. 32). Both these witnesses supported the version of Amjad Ali. They said that there was no appeal to voters on communal or religious grounds.

94. The Opposite party have examined Haj Ismail Hussain (O.P. 4) about this meeting. He has asserted that the meeting was in front of the Madrassah and not in the Hat or Bazar. Amjad Ali, Jahanuddin Ahmed and Bibhuti Sarkar spoke. They made no religious appeal in his presence. He did not listen to the whole of Bibhuti Sarkar's speech. He denied that he was dismissed from Lakhiganj Madrassah, but admitted that he had not resigned. The two statements are inconsistent. He claims to be the secretary of the managing committee of his school and the president of the managing Committee of the L. P. school.

95. About a fortnight before the date of polling (6-3-57), Jahanuddin Ahmed, and Bibhuti Sarkar visited the 'char' area near Chappar falling in Union No. 7 of Bilashipara polling station, which is exclusively inhabited by Muslems. They went from village to village and asked the people not to vote for the congress candidate, as the Government and the Congress Party had framed laws virtually stopping cow sacrifice, thus interfering with the religious freedom of the Muslems. If the Congress were voted to power, Muslems would not be allowed to bury their dead. They appealed to them in the name of religion to vote in favour of the P.S.P.

96. Two witnesses, namely; Alsar Ali (No. 23) and Julhas Uddin (No. 33) have deposed about this propaganda tour. Both the witnesses deposed about group meetings in which, according to them, appeal was made to voters to vote against the Congress and for the P.S.P. candidates on grounds of religion, by reference to prohibition of cow slaughter, anticipated stoppage of burial of the dead etc

97. Abdul Gafur (No. 12) and Khalil Talukdar (No. 13) are Amjad Ali's witness, so far as this part of the case is concerned. Abdul Gafur claimed to be a four-anna member of the Congress. He deposed that Jahanuddin Ahmed and Bibhuti Sarkar went to his place and took him as their guide in the char area, and he went with them to several places, Jahanuddin Ahmed was canvassing, but did not appeal to voters on religious grounds.

98. Khalil Talukdar had deposed about Jahanuddin Ahmed's visit to him and his advice to him to vote for any one whom he thought fit. The opposite parties have complained that the particulars with regard to propaganda in this area were vague but they did not ask for further particulars.

99. On 3rd March 1957, a public meeting is alleged to have been held at Chappar. It was addressed by Amjad Ali, Jahanuddin Ahmed, and Bibhuti Sarkar. Amjad Ali and Jahanuddin Ahmed said that cow sacrifice and cow

slaughter had virtually been stopped. Bibhuti Sarkar supported this view and pointed out how Congress Government had made it obligatory on Muslim boys in schools to sing Ramdhun Geet.

100. The version of the petitioner about the meeting receives ample support from the statements of P.W.—N. C. Dam—(P.W. 19) who attended some Congress group meetings in connection with the elections, D. K. Medhi (P.W. 20), an active member of the Primary Congress Committee, N. C. Roy (P.W. 21) an active member of the Dhubri Congress Committee, and Mayy-Uddin Sarkar (P.W. 22) who is not a member of the Congress Committee. The last witness is a teacher in the Chappar High School. N. C. Dam stated that though the word absolute was not used, the impression left was of a total ban. According to the version Sudhir Bose was the President. According to one witness he made some presidential remarks.

101. Sailesh Chandra Nag (R.W. 7) and Abid Ali Sarcar (R.W. 8) were examined on behalf of Amjad Ali. S. C. Nag said that he was the Vice-President of the Rural Panchayat. Amjad Ali, Jahanuddin Ahmed and Bibhuti Sarkar talked about economic matters at the Chappar meeting and did not say anything else. He also deposed about disturbances of 1955. He said there was agitation for driving away Bengalis. There was a procession in which there were Congress members. The witness stated further that he was a Bengali and wanted that Bengali should be a spoken language in Assam. He also demanded the inclusion of Dhubri Sub-Division in West Bengal.

102. Abid Ali Sarcar a collecting member of the Union deposed that Amjad Ali, Jahanuddin Ahmed and Bibhuti Sarkar spoke about ferry taxes, sales taxes, and about unpaid compensation for lands taken for the Bund. He did not remember what else was said. He was a member of the Chappar rural panchayat and was the President of the village Defence party. He is one of the riot sufferers and got some advance. He remembers that the speakers assured that they would obtain remission of the advances.

103. Sudhir Kumar Bose (O.P. No. 7) has been examined by the Opposite parties. He was a Zamindar and owned a large area of land with other members of his family. He deposed that he did not belong to any political party. He had a Saw Mill and was selling wood. He attended the Chappar meeting and deposed that Jahanuddin and not he presided over this meeting. He stated further that no appeal on religious or communal grounds was made. He admittedly was a friend and supporter of Jahanuddin Ahmed. He held meetings in order to oppose the Congress in regard to the manner of their contemplated abolition of Zamindaries. His brother-in-law contested the Bilashipara seat against the Congress in 1952.

104. About meetings and propaganda alleged to have been made in paras. 10(24) and 10(25), the learned counsel for the petitioner did not refer me to any evidence.

105. Some 25 days before polling in L.A. Dhubri Constituency, a meeting is alleged to have been convened by P.S.P. at Kachari Hat within the said Constituency. It was addressed by Amjad Ali, Jahanuddin Ahmed, Abul Fazl and Bibhuti Sarkar. They appealed to the voters to vote for the P.S.P. on communal lines according to the usual pattern stating that the Congress party and Congress Government were trying to Hinduisce all Muslims and were carrying on anti-Islamic activities.

106. Dr. B. N. Nath (P.W. 47) deposed that he was present at the meeting. Amjad Ali told the audience that if they voted for the Congress, they will have to cremate their dead. A law had been passed to the same effect. Cow slaughter had been banned. Ramdhun Geet was being sung, it was against Muslim religion. This witness is a member of the Congress.

107. Vikum Chand Jain (P.W. 49) deposed that Congress wanted to interfere with the religion of the Muslims by prohibiting cow sacrifice, but that this had been avoided. The prohibition had not been enacted, but added that if there was no opposition, the danger to Islam would remain. Bibhuti Sarkar said that Congress had prohibited cow sacrifice and cow slaughter. The Government will enforce cremation of dead bodies by Muslims. According to this witness the meeting commenced at 6-30 p.m.

108. Yusuf Ali (P.W. 50) is the 3rd witness of this series. According to him, Amjad Ali, Jahanuddin Ahmed, Abul Fazal and Bibhuti Sarkar spoke about the banning of cow slaughter, contemplated stoppage of the burial of the dead, and the anti-Islamic effect of Ramdhun which was being sung in Schools. The meeting according to this witness commenced at 3 p.m.

109. Suruj Mal (P.W. 52) has made a very brief statement. Amjad Ali said that there was agitation about the prohibition of cow slaughter, but nothing had happened. He did not say anything more. Bibhuti Bhushan Sarkar said that if they voted for the Congress, they may have to cremate their dead. This witness is a brother of Vikamchand.

110. Jaifulla Seikh (No. 3) and Khagendranath Nath Adhikari (No. 4) are the two witnesses for Amjad Ali. Both supported his version in a general way. Jaifulla did not remember what Jahanuddin Ahmed, Abul Fazl and Bibhuti Sarkar said. Khagendranath Nath also did not remember if anything else was said, besides Taxes, Tenant rights etc. He deposed that he had been a member of the Congress party for about eleven years. He said he paid Rs. 2 for active membership though the prescribed fee was Rs. 10.

111. On 23rd February 1957, a public meeting is alleged to have been convened by the P.S.P. in village Dharamsala within the L.A. Dhubri constituency. The speakers were Amjad Ali, Abul Fazal and Bibhuti Sarkar. They said that Congress Government had interfered with the religious rights of Muslims.

112. The petitioner's witnesses who deposed about the meeting are Dr. B. N. Nath (No. 47), Mahendra Nath Sarkar (No. 48), Yusuf Ali (No. 50), Darali No. (51), Giasuddin (No. 53) and Fazaruddin Sarkar (No. 54).

113. Dr. Nath deposed that Bibhuti Sarkar, Amjad Ali and Abul Fazal repeated what they had said at Kachari Hat. He is a member of the Congress. He contradicted his earlier statement on further cross-examination by stating that Bibhuti Sarkar was not present in the Dharamsala meeting.

114. Mahendra Nath Sarkar deposed that Amjad Ali said that cow sacrifice will be stopped by legislation, dead bodies of Muslims shall have to be burnt; Ramdhun Geet was anti-Islamic. Congress was trying to Hinduisce all Muslims. Abul Fazal and Bibhuti Sarkar said the same. He could not state what points the Congress speakers made in their meeting at Dharamsala. Yusuf Ali (No. 50) deposed that Amjad Ali said that cow slaughter had been banned; burial of dead would be stopped; Ramdhun Geet was being sung. Dur Ali (P.W. 51) supported the statement of the previous witnesses and admitted that Ramdhun Geet was being sung in his village schools. He states that Amjad Ali, Bibhuti Sarkar and Abul Fazl addressed the meeting. On further cross-examination this witness has stated that it would be against Shariat if Allah and Ram have been placed in the same position in Ramdhun Geet. Giasuddin (P.W. 53) also lent support to the petitioner's version about the meeting. Fazaruddin Sarkar (No. 54) deposed that the speaker said that cow sacrifice had been banned and burial of the dead would be stopped. According to this witness Jahanuddin Ahmed did not address this meeting.

115. Patru member (R.W. 1), member of the Rural panchayat and president of the meeting, has deposed that Amjad Ali did not say anything about cow slaughter or cow sacrifice. No one said that Islam was in danger. He denied that he belonged to P.S.P.

116. Wahed Ulla Bepari is the second witness in the series for Amjad Ali. He supports the petitioner's version of the meeting.

117. My attention has been drawn to allegations in para. 10(6) of this petition. It is averred that Amjad Ali and Bibhuti Sarkar held meetings between 17th February 1957 to 24th February 1957 at Nisiripur. It is argued that Bibhuti Sarkar could not be at Dhubri on the 23rd February. Amjad Ali has deposed that Bibhuti Sarkar was with him at Dharamsala on the 23rd February. Petitioner's witness—P. K. Chakravarty has deposed that Bibhuti Sarkar addressed a meeting at Fakiraganj on the 22nd or 23rd February. Mr. Bosc has relied on this statement for showing that Bibhuti Sarkar was not at Dharamsala on the 23rd February.

118. I have not been referred to any evidence about the meeting alleged to have taken place at Golakganj by either side.

119. On 15th December 1957, a meeting is alleged to have taken place at Moharichar in L.A. Mankachar constituency. Amjad Ali dwelt upon the banning of cow slaughter, on the burial of the Muslim dead bodies, and talked about the compulsion in singing Ramdhun Geet and worship of Tulsi plant.

120. Abul Suban (P.W. 6) deposed that Amjad Ali said that cow slaughter had been stopped and sacrifice of cow was permitted but with permission of the authorities. An Act was going to be passed which would stop burial of the Muslim dead. Ramdhun song un-Islamic in character, was being sung. He claimed to have stopped it.

121. The statement of P.W. 7 is useless. He did not attend the meeting. His knowledge is at best second-hand, and his testimony not direct. Dr. Mohammad Moksed Ali (P.W. No. 8) deposed that Amjad Ali said among other things that singing of Ramdhun had been stopped as a result of his efforts; and a bill aiming at a ban on burial of dead bodies of Muslims had been thrown out in consequence of efforts of opposition parties. The witness admitted that he was a member of the Congress, but his connection with it had ceased.

122. Maflzuddin Sarcar (No. 22) and Ainuddin Sheik supported Amjad Ali's version of the case about the meeting.

123. Petitioner's witnesses namely; Amad Ali Munshi (No. 24), and Efazuddin (No. 25) deposed to hearing Jahanuddin Ahmed stating at Syed Ali's house that cow sacrifice had been prohibited and cows under 14 years of age could be slaughtered with previous permission of the authorities. If this continued, they could not remain Muslims. A Bill to stop Muslims from burying their dead was pending. Efazuddin deposed to the same effect. This incident is not alleged in the petition. Evidence about it is, therefore, being left out of consideration.

124. On 11th February 1957, a meeting is said to have taken place in Bhaidbari Inspection Bunglow. This was convened by the Secretary, Bhaidbari Co-operative Society under the instructions of the Co-operative Inspector of Phulbari Circle. It is averred that in this meeting, Shamsher Ali said that the Congress is trying to Hinduise Muslims. It has banned cow slaughter. Afazuddin Mandal who is alleged to have been a supporter of Amjad Ali, said that the Congress Government had stopped cow slaughter which was incumbent on Muslims as part of their religion and that it would legislate to compel Muslims to burn their dead.

125. Tarifulla Dewani (No. 38) deposed that Afazuddin said that the Congress was responsible for burning Muslim houses and the abolition of burial of their dead. Shamsher Ali talked to the same effect. Makshedur Rahman said that Congress had stopped cow slaughter and burial of the dead by Muslims. Tafauila (No. 40) deposed that Shamsher Ali said that the Congress will stop cow slaughter and burial of their dead. Kctu Sarkar (No. 41) deposed that both Afazuddin and Shamsher said that cow slaughter and burial of the dead were going to be stopped.

126. Dr. Rahat Ali (No. 18) and Asad Uddin Munshi are Amjad Ali's witnesses. Dr. Rehat Ali deposed that he was present at the meeting; and except matters relating to co-operative society, nothing else was discussed. Shamsher Ali did not attend the meeting. Asaduddin deposed to the same effect.

127. Sarat Chandra Singha (No. 27) is a whole time Congress worker. He is the President of the Dhubri Congress Committee. He is also the Secretary of the Assam Pradesh Congress Election Committee and President of the District Congress Election Committee. He himself was a Congress candidate from Gossain Gaon constituency. He deposed that as president of the District Congress Committee, he came into contact with Congress workers in different localities. The P.S.P. propaganda, according to him, was that if the Congress won the elections, the Muslims shall not be allowed to sacrifice cows. They referred to the Cattle Preservation Act and preached that by reason of this Act, Muslims would not be able to exercise their religious rights. The Congress would stop the burial of dead bodies and it would make cremation compulsory. It was also stated that a bill to stop burial of the dead was introduced in the Parliament, but it could not be passed as a result of Amjad Ali's efforts. The Congress, it was stated, introduced the singing of 'Ramdhun Geet' in schools which was un-Islamic. The shifting of Jumma prayers from Fridays to Sundays and the compulsory worship of 'Tulsi' were anticipated from the trends of the Congress policy. The witness also referred to the exhibition of a partially burnt copy of the Holy Koran at Salmara and other places as also the exploitation of the Marishbari incident. The witness gave the names of persons from whom he received reports. He further deposed that he reported all this to Shri B. P. Chaliha (now Chief Minister of Assam) and also the publicity department of the Provincial Congress Committee. The publicity department in consequence issued a pamphlet to explain the significance of the Act. This pamphlet is Ex. P. 3. He informed Sri Bishnuram Medhi, the then Chief Minister also about the reports he had received.

128. He denied that the Congress became unpopular with the Bengalis as a result of his participation in demonstrations against the demand for taking Goalpara District out of the State of Assam and including it in West Bengal.

129. He did not receive any written reports, nor did he take down notes. The propaganda, he said, was on such a large scale that no taking of notes was necessary. He did not personally attend any meeting. His evidence is based on reports received. He discussed the situation with the Chief Minister, Shri R. Brahma, Shri M. M. Choudhury, Shri Debeshwar Sarma and Jonah Fakharuddin Ali Ahmed. He could not give the details of the speeches made at any particular meeting or by any particular individual. He merely summed up the P.S.P. propaganda that was carried on in a general way. He could not give the date of the pamphlet issued. He stated that it was for distribution where necessary.

130. The pamphlet purports to be a reply to the distorted version of the Act passed by the Assam Government. Its object was to counter-act the false propaganda of interested communalists. It dealt with and explained the significance and the purpose of the Act stating that communal groups had been trying to show by false propaganda amongst the simple Muslims that the Congress Government, by passing the Act, had interfered with or invaded Islamic religion. In the main, the pamphlet is an answer to this charge.

131. Who would believe that the Congress organisation would issue and distribute a pamphlet, which repeats the charge against it of abridging the religious freedom of the Muslims and then try to meet it? If propaganda on religious grounds was not carried on by reference to this Act, it is inconceivable that a pamphlet like this could have been issued. That this step was considered necessary indicates in no uncertain manner that intensive propaganda on a large scale was being carried on with the Cattle Preservation Act as its basis and with a view to appealing to Muslim voters on grounds of religion, as an appeal in this form was more likely to be attended to than merely criticism of the Congress Government in relation to matters outside the domain of religion or in relation to its efforts in the region of economic reconstruction.

132. Respondent denied the knowledge of the distribution of the pamphlet, but his witness Wahetulla Bepari (No. 2) talked to Umaruddin about this pamphlet. Kalimuddin (R.W. 19) also stated that papers published by the Congress about this Act were shown by Umaruddin. It is difficult to believe that the pamphlet was not being utilised after its publication.

133. Amjad Ali's written statement embodies a total denial of the meetings held and of the utterances of speakers alleged to have been made in para. 10 of the petition. At the trial he admitted that on the 16th January, he addressed a meeting at Fakiraganj, on 17th January at Burkakali, on the 20th January at Jaleswar, on the 21st January at Chunari, on the 22nd at South Salmara, on the 25th January at Gouripur, on the 1st February at Kuchri Hat, on the 14th February at Morichar, on the 17th February at Bengalipara, on the 22nd February at Gualachar, on the 23rd February at Dharamsala and on the 26th February at Bandiparachar. He deposed that he went to Gutipara on the 27th February when no meeting was held there. On the 3rd he held a meeting at chappar; on the 4th March at Lakhiganj. He denied that there was any meeting at Kadamtala. In regard to the two meetings alleged to have been held at (1) on 27th February, 1957 at Gutipara and (2) on the 15th February, 1957 at Kadamtala, Amjad Ali adhered to his denial in the written statement.

134. Between the two versions there is difference of dates of about five meetings only. These meetings were at South Salmara, Gaulichar, Marichar, Bengalipara and Gouripur. No great importance attaches to the variations in dates. Both sides had no notes or memoranda about the dates of the meetings. There is no documentary evidence as to the dates of the meetings. Conflicting statement may, therefore, well be expected. It is worthy of note that some public meetings at least were admitted to have been held at places and on dates alleged in the petition, though no such disclosure was made by the respondent in his written statement.

135. He came into the witness box when all his witnesses had been examined. He did not open his case in the usual way. His statement to a very great extent is a repetition of the statements of his witnesses, who were examined in his presence on different dates. When he began to adduce evidence, it was pointed out that according to the usual practice, he himself should come into the witness box first. His counsel preferred to examine other witnesses before calling the respondent into the witness box. "It is the duty of a party, who has certain facts within his personal knowledge to appear before the Court at a very early stage of the case as a witness and to give evidence relating to these facts and submit himself to cross-examination by the other side"—(vide 1933 Lahore 243-244). The rule so expressed was defied. Amjad Ali deposed as to the nature of the propaganda he carried on in his constituency and stated that his propaganda was

directed to showing the economic situation in the country as revealed in the Manifesto (Ex. R. 5). He and his supporters talked about unemployment, labour conditions, distribution of land, disparities of income and the P.S.P. view of the five years' plan. Local problems were also discussed. These included the linking of the Garo Hills with the plains, the strengthening of the main system of the railways and the proposed bridge over the Brahmaputra between Joghigaon and Pancharatna, remission of loans to migrants, failure of the Assam Government to pay compensation to those whose lands had been taken away for the building of embankment, and non-interference with the rights of the tenants under the Goalpara Tenancy Act.

136. He conceded that the Cattle Preservation Act was discussed at meetings at Fakiraganj, Jaleswar, Chunari, South Salmara and Gonalichar. In all these meetings questions were asked about the Act and they were answered. The scope of the Act was explained correctly and no kind of religious or communal propaganda was carried on. Even this concession made at the trial did not find a place in the written statement.

137. Amjad Ali is an advocate of the Supreme Court. He was a Commissioner of the Goalpara Municipality for two terms. In 1937 he was a member of the Goalpara Local Board. He was nominated to the Dacca University Court in the year 1939 and appointed its Fellow in 1943 on the recommendations of the late Sir Saiyed Md. Saddulla. He was elected to the Assam Legislative Assembly as an independent candidate. He remained its member from 1937 to 1945. In 1939 he joined the League. In 1950 he joined the Socialist Party.

138. Amjad Ali had made a long statement in connection with the documentary evidence on record. His statement in relation to this evidence shall be considered when documentary evidence bearing on different aspects of the controversy is considered.

139. Evidence bearing on specific instances given by the parties and referred to by their learned counsel in argument has been summed up above. I have also carefully gone through the rest of the evidence which has any bearing on matters in controversy. There is evidence both documentary and circumstantial. I now proceed to consider the oral evidence in the light of available evidence, documentary and circumstantial under appropriate heads which are supplied by the alleged planks in the election campaign of Amjad Ali.

140. From the evidence of the petitioner read as a whole, one fact emerges very conspicuously. Witnesses of the petitioner have consistently deposed that Amjad Ali and his supporters indulged in propaganda on religious and communal lines. They did not depose that the respondent's manifesto, or the programme or the principles of the P.S.P. were referred to and discussed. According to these witnesses, the speeches of the respondent and his supporters were limited to the denunciation of the Congress party and the Congress Government, only on religious and communal grounds. One looks in vain for any statement by petitioner's witnesses admitting that any speaker of the P.S.P. deviated into an effort to educate or inform the electorate as to what the P.S.P. stood for. It is somewhat surprising that speeches should have been confined invariably to religious or communal issues only.

141. The respondent is in an even worse position in this respect. His witnesses have adhered to the pattern of the petitioner's witnesses. They have deposed that Amjad Ali's and his supporters approach to the electorate was exclusively based on matters other than religious or communal. No appeals were made to voters on grounds of community or religion. Questions about the Cattle Preservation Act were just answered very accurately. There was no reference to any matter with religious or communal association. I regard this as even more surprising in view of some documentary evidence, which has been made available in this case, and to which reference will be made presently.

142. Both the parties have put their cases skyhigh. Oral evidence is directed to proving the respective cases set out in the pleadings.

143. Oral evidence in election cases may well be received with abundant caution. Rival parties and organisations have their supporters. They are usually large in number. In large constituencies, the followers, supporters and adherents of parties would be in still larger numbers. Election petition is a continuation of the contest at the polls. Witnesses from those who openly take sides either from convictions or for other reasons can be easily produced to support cases put forward by contesting parties. These witnesses even if honest and truthful may have unconscious bias. Several witnesses of the petitioner have admitted that they are members of the Congress. Amjad Ali stated that

he had supporters and workers of his party. Their number was considerable. Oral evidence in this case amply illustrates the need for caution. The two versions go to two extremes to which it was possible to stretch them. It is difficult to believe either version in its entirety.

144. Another obvious difficulty is that witnesses on either side made no notes of speeches. There were two or three speeches made at each meeting. The witnesses cannot be expected to reproduce from memory the words used by the speakers when dealing with even prominent topics of discussion, after about a year of the election campaign, when they came into the witness box. Accurate reproduction of speeches would depend on the attention given at the time of the speeches, interest in the matter discussed, powers of memory and competency of the witnesses to understand and express what is heard. These qualities would vary in persons constituting even an intelligent audience. Oral evidence of speeches, therefore, is to a great extent subject to mistakes which can occur by absence of proper comprehension of the speaker's meaning and also when the person reproducing has difficulties of retaining what is heard and then expressing it after a long time. A slight alteration in words even un-intentional may give a different meaning or colour to the utterance. In election cases little twists to what is said may even be looked for. In the circumstances a search for truth by a close examination of the oral evidence in the light of available documentary and circumstantial evidence is the only course for finding out what may in the circumstances of the case be regarded as proved beyond any reasonable doubt.

145. From petitioner's evidence it appears that the Cattle Preservation Act, 1951, was exploited for persuading voters to believe that the Congress party was willfully interfering with the religious freedom and the rights of Muslims. The petitioner's witnesses have deposed to it, though the words they expressed themselves in were not exactly the same. Some witnesses stated with reference to Amjad Ali's speeches that all that he said was that though there were no restrictions on the slaughter of cows for sacrifice on Id days, permission for slaughter was necessary at all other times and cattle above 14 years of age could alone be slaughtered. A large number of witnesses said that Amjad Ali and his supporters asserted that cow sacrifice and sacrifice had been stopped. Some said that if the Congress was voted to power, it would be stopped. It has been argued that petitioner's witnesses have given no less than three versions of the manner in which the Act was utilised. Some have said that a total ban had been imposed on cow sacrifice and slaughter; others deposed that the Act imposed restrictions on religious rights; some also stated that cow sacrifice and slaughter would be banned. These differences appeared in the statements of petitioner witnesses. It is possible that the speakers at the different meetings put their cases differently. It is also possible that witnesses when giving evidence have reproduced their own impressions of what was said. One thing, however, is fairly evident. Petitioner's witnesses have deposed that even when the restrictions contained in the Act were referred to, they were presented as restrictions on pre-existing religious rights, which stood reduced or abridged. The third version may merely mean that the provisions of the Act, which had been given effect to, would be implemented and they would give rise to an effective ban on cow slaughter, and at least a partial ban on cow sacrifice. The gravamen of the charge is that the Act was fully utilised by Amjad Ali and his supporters for creating a religious or communal bias amongst the Muslim voters against the Congress Government and the party. Frequent references were made to the Holy Koran. Texts were read and explained. It was given out that cow sacrifice was enjoined by the Shariah and the religious freedom necessary for it had been taken away or was so curtailed that virtually cow slaughter and sacrifice stood banned. The recitation of the Holy Koran and the reading of the texts in relation to the situation created by the Cattle Preservation Act could easily be understood as an appeal on grounds of religion and would in law amount to it.

146. Respondent Amjad Ali started with an out and out denial of all references to matters religious or communal. Some of his witnesses admitted that questions were asked and answered. The import of the Act was explained in meetings held at six places. Amjad Ali, who came into the witness box last of all had heard what the witnesses had said and himself conceded that the Act was discussed at the meetings held at Fakirganj, Jaleswar, Chunari, South Salmara, and Gaulachar. He deposed that in all these meetings questions were asked about it. The questioners wanted to know by which legislature, this Act had been passed, its implications and the areas to which it applied. He told them that the Act had been passed by the State Legislature. Legislation on the same lines was attempted even at the Centre and the Prime Minister himself opposed it. It was put to a division and was lost. The Assam Act had been passed in

1951. It was not given effect to till August, 1956. He also explained the provisions of the Act stating that cows or buffalos above 14 years of age could be slaughtered with the permission of the Competent authority. He also told them that the Act did not apply to sacrifice on three days of Id-Uz-Zuha, and that its application was limited to the plain areas of Assam.

147. Assuming that this was all that was said Amjad Ali brought out that the Parliament had thrown out a similar Act. The Prime Minister had opposed its passage. The Assam Legislature which passed it applied it to the plains, leaving the Hills areas out of its operation. The 3rd point which was made out was that barring three days of Id, when cow sacrifice was possible without let or hindrance, permission for slaughter of cows was necessary, and this could be obtained only in the case of cows above 14 years of age.

148. It may be stated that what was conceded by Amjad Ali and his witnesses at the trial is not consistent with the total denial about references to the Act for purpose of election. Even in para. 34 of the written statement the fact that the Act came into picture as admitted in evidence on certain occasion was not mentioned. It appears that later it was felt that the extreme position taken up in the written statement was difficult to maintain. The statement of Amjad Ali brings out a modified version.

149. The claim that the Act was discussed involuntarily and only in answer to question cannot be reconciled with some important documentary evidence.

150. Ex.P(1) is a copy of a hand bill issued by the P.S.P. announcing the Fakiraganj meeting held on 16th January, 1957. By this hand bill, people were informed that 'a huge gathering had been arranged for discussion as to how Tenancy Law will be altered after the abolition of Zamindary and for discussion on 'cow killing Law' and various other subjects and to inform the general public about these laws'. It was further stated that Amjad Ali will enlighten the people about his achievements. The hand bill was issued over the names of nine members of the P.S.P. Amjad Ali inspite of his plea of denial admitted having addressed this meeting. Discussion on cow killing law was a part of the Agenda. Other laws were also mentioned. The reference could possibly be to the Funeral Reforms bill. These matters were to be discussed in conformity with the settled programme without any compulsion arising from questions.

151. Ex. P(10) is another hand bill announcing the Chunari meeting. It also refers specifically to the law providing for protection of cattle. These notices were placed on record by the petitioner. Ex. P.(1), P(2) and P(10) were received in evidence with the consent of Amjad Ali and their proof was dispensed with vide order dated 24th October, 1957. The conclusion that the contents of these hand bills point to is that the Act formed an important plank of the election campaign of the P.S.P. candidates.

152. There is other documentary evidence on this aspect of the matter which also is not easy to impeach. Umaruddin P.W. No. 63—is a prominent Congress man. On 31st January, 1957 he addressed a letter (Ex. P. 13) to Shri B. R. Medhi the then Chief Minister of Assam (now Governor of Madras), intimating to him that the "Muslim P.S.P. candidates had made the cow protection Act of 1949 or 1950 the spearhead of their attack against the Congress Government alleging in particular that the Act had been brought into force in August last only in plains districts of Assam after certain independent Muslim M.L.As. joined the Congress and the general body of muslims were persuaded to do so, that the action of the Government is a direct encroachment on the religious rights of Muslims. In the course of this infectious and mischievous propaganda by playing upon the religious statements of the Muslim, they are also giving a broad hint that stoppage in burial of Muslim dead bodies and the calling of Azan (call to prayer) may follow suit not in the distant future. As a result of such propaganda being systematically carried out in the Muslim majority areas considerable dissatisfaction has been created. I consider it, therefore, my duty to bring the matter to your notice as well as to that of Mr. Chaliha (Shri Bimola Prosad Chaliha the then President of the A.P.C.C.), and would urge upon steps to be taken to counter this pernicious propaganda before it is too late".

153. Shri J. Hazarika, Principal Private Secretary to the Chief Minister was summoned to produce this letter as also a letter said to have been addressed to the Chief Minister by Abdul Bari on 9th January, 1957. He stated that he had not been able to trace these letters. They had been received in Shri J. Barua's time. He was his predecessor in office. He testified that the Ex. P. 5 and Ex. P. 7 were correct copies of the replies sent to Abdul Bari and Umaruddin.

154. Ex. P. 7 is a copy of the letter sent in reply to Umaruddin's letters of 31st January, 1957. The letter deals with the Cattle Preservation Act. It states briefly the purpose of the Legislation and gives the gist of the provisions of the Act.

155. It was put to Umaruddin (P.W. No. 63) in cross-examination that the Chief Minister's letter does not refer to allegations about hinting by P.S.P. spokesmen of the anticipated stoppage of burial of their dead bodies by Muslim and also of Azan. There is no express reference to these items in the Chief Minister's letter. But this omission is intelligible. The Cattle Preservation Act was a Government measure. The Chief Minister and his Government were responsible for it. They would when occasion arose explain their object and also the import of the Act. Umaruddin had asked for a copy of the Act and the rules if any. The vital provisions of the Act were explained to him. The other two items of the P.S.P. propaganda had no connection with any Act of the Assam Government. But the Chief Minister did assure Umaruddin that he would meet him on 8th February and would discuss matters as to how the success of the Congress candidate could be assured. Evidently other items were left for discussion at this meeting. In any case the omission by the Chief Minister to refer to these two matters brought out in Umaruddin's letter does not cast any doubt or suspicion on the accuracy of the contents of Ex. p. 13. I have no hesitation in holding that it is a correct copy of the original which could not be traced. This document was placed on the record before it became known that the original could not be traced.

156. It is noteworthy that Umaruddin wrote to the Chief Minister as one in charge of the election campaign on behalf of the Congress in the entire Dhubri Sub-division which formed the major part of the parliamentary constituency with which we are concerned in this case. He was informed about the P.S.P. activities. He received reports from P. Choudhury, Nazmul Haque, Abdul Bari Sarcar and others that the P.S.P. were carrying on propaganda on religious lines, they were representing that the Assam Cattle Preservation Act of 1950 which had been enforced a few months before was an encroachment on the religious rights of the Muslims. He had reports that it was being said that the Congress would stop burial of the dead by Muslims and also the call to prayers. The letter is evidence of the fact that such reports were being received. Whatever the strength of the P.S.P. candidates, fabrication of evidence with the purpose of utilising it in court if congress candidates were defeated would be something extremely improbable. On the other hand the need to counteract such propaganda could arise from an impelling necessity. The head of the Government and the provincial head of the Congress organisation—Shri B. P. Chaliha—now Chief Minister—were both requested to take steps to counteract propaganda designed to split the citizens into communal or religious compartments.

157. Abdul Bari (P.W. 32) also addressed Shri B. R. Medhi. He wrote to him on 9th January, 1957—*vide* Ex. P.-4. He dealt with his difficulties. In para. 3 of his letter he wrote as follows:—"That Lalji (Shri Prokatis Ch. Baruah) of Gauripur has decided to stand in my constituency as an independent candidate and one Azad Ali has also been selected by the Socialist party. Jonab Amjad Ali, M.P. along with his small band of followers is poisoning the ears of the Muslim voters by saying that Congress of Assam has interfered with Islam in stopping cow sacrifice and that to in the plains only. The cattle Preservation Act of 1951 and its implementation in August, 1956 is their main instrument of attack. Some practical guidance to the fact to meet their charge may promptly be made. And some All India Muslim Leader may be deputed to Dhubri to counteract this nefarious propaganda.

158. As stated above the original of this has also not been traced. The copy is admissible. No doubts have been cast on its correctness. In the 2nd week of January Abdul Bari a congress candidate was asking for assistance from the Chief Minister to counteract propaganda based on a view of the Cattle Preservation Act which it was apprehended may influence voters to a mass swing in favour of the P.S.P.

159. Abdul Bari Sarkar (P.W. No. 32) deposed in cross-examination that he was selected for a congress ticket in the middle of January. Before that he was canvassing for the Congress since January, 1956. He found Muslims unaware of the Cattle Preservation Act until P.S.P. members including Amjad Ali began talking about it. He learnt in November, 1956 that the P.S.P. were planning to make this a plank in their election campaign. He stated that he received no complaints from Muslims in general about this Act. He was confronted with Ex. R. 4, a letter addressed by him to Amjad Ali on 15th December, 1956. In this letter Abdul Bari expressed himself as follows:—"the

Muslim mind as you know is very much perturbed for the promulgation of the Cattle Preservation Act in the plain districts of Assam. *** *** *** Kindly put it before the Parliament and get necessary orders passed for withdrawing the Act at least before the election. I hope you will do the needful early.

160. The statement in the letter at the first blush would seem to be inconsistent with Abdul Bari's statement in court. If he had received no complaints from muslims in general, would it be correct or appropriate to say that the Muslim mind was very much perturbed. The Act was passed in 1950. Effect was given to it in July 1956 almost on the eve of the elections. There is no evidence from the petitioner's side showing that the observance or compliance with the provisions of the Act was insisted on before the polling. There is no suggestion that the applications for permission to slaughter were made during this time or there were any prosecutions for unauthorised slaughter. It is possible that the Gazette notification about the enforcement of the Act had not become widely known till it had become a plank in the election campaign. It is also likely that till the middle of December Abdul Bari received no complaints about it from Muslims in general but he was not wholly wrong when he said that the Muslim mind was perturbed because of its promulgation. Abdul Bari when he said this must have meant the intelligentsia amongst the muslims. He himself was one of this class. He himself felt perturbed and was seeking assistance from a co-religionist though a political opponent for its withdrawal believing and hoping that the Act would be equally obnoxious to Amjad Ali. From the view point of elections Amjad Ali would be last person to assist Abdul Bari. Even if he had no intention of exploiting its provisions and even if he was as desirous as Abdul Bari of getting its withdrawal, his politically intelligent interest was not to lose the natural advantage which the Act gave him. It was a sort of a windfall for him. He could wait till the elections were over and then seek to obtain its repeal. As things then were Abdul Bari was unduly optimistic. He was placing a rather tall order on Amjad Ali.

161. Amjad Ali has deposed that when questions were asked he explained the provisions of the Act correctly. He has expressed his opinion about it too. He said it was for the public good. He saw in it no interference with his religion. He said that he was not conversant with Koran Sharif. He had read parts of it in Bengali and English. He thought the Act was not objectionable in any way and was for the good of the public. He explained its significance to the people and they seemed to take it gracefully. He did not think discrimination between the Hill areas and plains as unjustified. The Act was un-exceptionable in his view.

162. This statement does not ring true. It does not sound probable much less convincing. Amjad Ali wrote to the Government of Assam asking for information on the following points:—

- (1) Whether the Act had been put into effect?
- (2) Whether any rules had been framed under it?
- (3) The extent of its application?

In answer he got a letter dated 19th November, 1956 from Shri G. Barua, Under Secretary. He explained when giving evidence that he was curious to know if inspite of the Prime Minister's assurance that he would ask the Chief Minister to desist from passing such laws, the Act in question had been given effect to. He naturally was expecting that such a thing could not have happened.

163. At another place in his evidence Amjad Ali states that the Indian Cattle Preservation Bill introduced in the Lok Sabha by Seth Govinda Das was not opposed by him. The Prime Minister himself opposed it. He even offered to resign on the issue if it became necessary. He said that Seth Govinda Das was a congress man. He was responsible for the bill. It was a private bill. The fact that he was a member of the congress could easily lend itself to the view that some congress men even at the Centre were in favour of such legislation. Some people could be misled by suggestion or hints to that effect.

164. The bill in the Lok Sabha was opposed on the ground of the incompetency of the Central Legislature to consider it. The preservation of Cattle was, it was urged, a State subject and the States alone could legislate on it. According to Amjad Ali the Prime Minister was opposed to such a measure even in the States. He said he would ask the Chief Ministers to desist from promulgating such laws. Evidently inspite of the declared economic purpose of the proposed legislation at the Centre, and of the Assam Act, the Prime Minister was uncompromisingly opposed to it. But Amjad Ali thinks it is un-exceptionable.

Even Abdul Bari, a member of the Congress felt perturbed. He was a fitting representative of the Muslims intelligentsia and vainly hoped that Amjad Ali would support him in obtaining its repeal.

165. Shortly stated, the Act prohibits slaughter of cattle under 14 years of age. It provides for previous permission which is given if the condition laid down in the Act are satisfied. Permission could be given only if the cattle intended to be slaughtered is over 14 years of age and unfit by reason of disease for its normal activity. The limit about age etc., and the need for permission are restrictions on the freedom of slaughter which existed before the Act was given effect to. The Act exempts from its operation, slaughter of any cattle on the occasion of Id-Uz-Zuha. Section 13 further provides that the State Government may by general or special order and subject to such conditions as it may think fit to impose, exempt from the operation of this Act the slaughter of any cattle for any religious ceremonial, research or any other purpose. The absolute exemption is only for three days of Id. During the short period the operation of the Act is suspended. For the rest of the year the right to slaughter cattle has been restricted.

166. Shri B. R. Medhi informed Umaruddin (P.W. 7) that the preservation of the Cattle which was the object of the Act was provided for on economic grounds. But it can't be gain-said that the measure is of a controversial nature. The opposition of the Prime Minister would presumably be on this basis. Despite economic advantages which surely will flow from restricted or regulated slaughter of cattle, other aspects of the legislation imposing restrictions have to be considered. The bill in the Lok Sabha was a private one. The Government or the Congress organisation were not responsible for its introduction. The traditional reverence of the Hindus for the cow takes even the form of worship with some people. The slaughter of cows is regarded as sacrilegious. For the Muslim its sacrifice on certain occasions in general and at Id-Uz-Zuha in particular, is a meritorious Act. Whether cow sacrifice is enjoined or not, there is no doubt that it has traditional and perhaps scriptural approval, so far as Muslims are concerned. These differences of outlook make the measure undeniably controversial. The question has religious and communal aspects. It is, therefore, not surprising that opinion on the expediency of the Legislation on this matter may be divided. If Muslim opinion looks upon attempts at legislation even though prompted by motives of economic advancement, with disfavour it would not be surprising to find Amjad Ali curious to know if the Act had been given effect to in spite of Prime Minister's assurance on the floor of the House in the Lok Sabha to which he referred in his statement. His re-action was natural. His curiosity was shared by his Muslim electors according to him. His statement in court that the Act was un-exceptionable must have been influenced by the provision contained in section 123(3) of the Representation of the People Act, prohibiting appeals to voters on religious or communal grounds for voting or refraining to vote for a particular candidate. It is one thing to claim that Amjad Ali refrained from exploiting this Act as alleged for election purposes, it is a wholly different thing to say that the Act is unexceptionable from the Muslim view point. It does not exempt cow sacrifice on occasions other than the Id-Zuha and places restrictions on slaughter which may appeal irksome to those used to the exercise of this right.

167. The first meeting of the election campaign was addressed by Amjad Ali at Fakiraganj. The Act was discussed there. In bold letters it was announced that the 'cow killing Law' would be discussed. There is a suppressed reference to other laws as well. But the Cattle Preservation Act was prominently mentioned. The hand bill for the Chunari meeting also refers to it. The letters of Abdul Bari and Umaruddin to the Chief Minister constitute a refutation of the position taken up by Amjad Ali. The Chief Minister and the President of the provincial Congress Committee were moved to counteract his propaganda. Reports were received from Assembly constituencies. A pamphlet was issued to explain the true significance of the Act and the Congress stand about it. Congress leaders like Jonab Fakharuddin Ali Ahmed and Shri Debeswar Sharma came to tell voters that the Act did not interfere with religious rights or obligations and that it had a purely secular purpose. All this became necessary because of a wide calculated any systematic appeal to the electorate to vote for the P.S.P. and against the congress candidate on the grounds of religion by reference to the provision of the Act by Amjad Ali and his supporters. It is thus evidence—both documentary and circumstantial—which lends support to the oral evidence about the utterances and the nature of propaganda at the meetings most of which had to be admitted at the evidence stage.

168. The contention that petitioner's witnesses have given three versions about the Act. Which has been dealt with above. In substance the charge was that the Act was freely and extensively utilised by Amjad Ali and his supporters for creating a religious and communal bias against the Congress has been and this has been fully substantiated.

169. The 2nd plank of Amjad Ali's campaign was that the Congress Government would stop burial of the dead by Muslims and enforce cremation. A bill known as the Funeral Reforms Bill was introduced in the Parliament in 1954. A copy of this bill has been filed by Amjad Ali. He has also put in a copy of an issue of the 'Comrade' dated 15th September, 1956. In this issue there was an article under the caption 'Funeral Reforms Bill causing anxiety amongst the religious minorities'. He did not refer to these documents in his own statement, nor did he examine any witness about them. He was asked in cross-examination why or for what purpose he had produced these documents. In regard to the copy of the bill he said that he had produced it to show that it was a closed affair as the bill had been thrown out long ago. Now a copy of the bill does not show that the Bill had been thrown out. It may be utilised for showing what the bill was about. It would have to be proved otherwise than by the copy of the bill that the bill had been buried. The statement of Amjad Ali on this point, therefore, does not carry conviction. The purpose of a filing a copy of the bill probably was to show what the bill was intended or calculated to achieve. The provisions contained in the bill would show that prohibition of the burial of the dead was the objective.

170. The bill embodied an absolute prohibition against burial. It was not directed against Muslims alone. All communities with whom burial of the dead was customary, would have been affected if it had become law. Muslims were the largest single minority which would have been affected.

171. Amjad Ali has deposed that burial of the dead bodies is enjoined by Islam. Cremation would be un-Islamic. A Hindu member was responsible for introducing the Bill.

172. If there was no reference to this bill in the course of election campaign and if it was not utilised for attributing to the Congress party or Government a communal or religious bias in favour of cremation which could lead it to legislate for enforcing cremation, it would be pointless for Amjad Ali to produce the Comrade issue of 15th September and the bill. On the other hand if references were made to this attempt to stop burial by legislation, the bill and the comments on it in the Comrade could be utilised for providing justification for what was said.

173. It has been deposed by a large number of petitioner's witnesses that the campaign of Amjad Ali was directed to showing that Islam was in danger if the Congress continued on in power. This attempt by a Hindu member to introduce cremation by legislation could easily fit into the scheme for a systematic appeal to voters on grounds of religious by a little twisting of facts. Umaruddin's letter (Ex. P6) dated 21st January, 1957 brings out the fact that a broad hint was being thrown to voters that the stoppage of burial of Muslim dead bodies would follow the prohibitions of the Assam Act in no distant future. I regard it as extremely improbable that this statement should be merely a figment of Umaruddin's imagination. On 21st January, 1957 there was no need for inventing such false charges. Prudence also would dictate against such a course, for if Amjad Ali and his supporters were not utilising the bill for their campaign any effort to meet something which was not presented to the voters would have added to the difficulties of the Congress candidates. Unearthing an old dead bill and then disclaiming responsibility for it was an unwise course. Umaruddin considering his education, age, and experiences could not be regarded as capable of such a mistaken course.

174. Ramdhun Geet—In regard to the 3rd plank of the campaign, the Ramdhun Geet—Amjad Ali stated that he had correspondence with some people of South Salmara—a predominantly Muslim constituency. He had asked for the text of the song from them. Having done this he wrote to Shri Om Prakash Das the then Education Minister. He forwarded with his letter the communication which he had received from some persons of South Salmara who were objecting to the singing of this song in schools. The Education Minister wrote back on 14th November assuring him that he would discuss this matter with his officers. After necessary enquiries he wrote to Amjad Ali again sending him a letter of Shri U. Ali, B. L. B.T. Dist. Inspector of Schools, dated 18th November, 1956. He was informed that there were no orders from the Education

Department for singing or reciting this song. There was no compulsion about it. The letter of the Dist. Inspector shows that the song was being sung though voluntarily. These letters were placed on the record by Amjad Ali. Three witnesses of the petitioner namely; Abdul Samad Choudhury—(P.W. 13), Abdul Kalam Azad (P.W. 49) and Panchananda Nath (P.W. 46) also admitted that the song was being sung in some schools.

175. The evidence of the petitioner is that this Geet was characterised as un-Islamic. "Johi Allah So hi Ram" was said to be something sacreligious as it placed Allah on a level with Ram.

176. We have it from Amjad Ali that some Muslims in South Salmara were objecting to singing of this song. They approached him for moving the authorities for redress. He did so and obtained and assurance that there was no compulsion about it. But the fact that it was being sung remained. "Johi Allah So hi Ram" is a mutilated version of a verse of the song. Apart from the word Allah the song is in Hindi, and even if it was not given out that there was any compulsion about it the fact that it was being sung could serve as a basis for attributing to Congress a bias in favour of Hindu culture or religion. The song in substance may be a prayer to God and yet there may not be many Muslim who may like to pray to God in the words which would be strange to them. But whatever the meaning or import of the song it would come in handy for supporting a charge that the Congress was Hinduising Muslims or that it was imposing the Hindu way of worship upon them.

177. South Salmara L. A. Constituency is a predominantly Muslim area. There were objectors there. If appeal on religious grounds was decided on, I see nothing improbable in the statement that the song was characterised as un-Islamic and hints or suggestion about its compulsory character were thrown by some speakers at some meetings.

178. The Marishbari incident is the fourth ground on which according to the petitioner religious feelings were sought to be roused. Ex. R. 2 put in by Amjad Ali embodies Abdul Bari's (P.W. 32) version of the incident. He said in the letter that 'on 12th February at about noon raiders numbering 5/6 hundred composed of Hindus and Tribal men with deadly weapons entered into the area where the Muslims were living with families in their homes and burnt each and every house and looted their properties and drove them away from that area and in their such action it is reported that two were killed and many injured, including women some of whom are in a precarious condition'. Copies of this letter was sent to the Prime Minister of India, Chief Minister of Assam, and the Chief Secretary. A copy was also sent to Amjad Ali.

179. Ex. R. 3 is another letter from Abdul Bari Sarcar to Amjad Ali dealing with measures for relief work taken by the authorities. He also conveyed his thanks to Amjad Ali for the work he had done for the Marishbari sufferers.

180. Petitioner's case is that Amjad Ali and his supporters represented to voters that this was a communal affair. Hindus at Congress instigation burnt Muslim houses. A copy of the Holy Koran was also burnt. It was shown at some meetings. A property dispute between two groups was given a communal complexion for election purposes.

181. Muslim houses were burnt. Hindus and Tribals were charged for this horrible case of arson on a large scale. If so many houses were burnt it is possible a copy of the Holy Koran may have been burnt partially. This affair also lends itself for use as showing that the Congress regime made it possible for Hindus to burn Muslim houses. Muslims and their properties were not safe therefore, in Congress regime.

182. Abdul Bari in Ex. R. 2 wound up his letter by saying that the unfortunate incident has created a great panic amongst the Muslims. He expressed the hope that Government will take proper and suitable steps to allay this panic.

183. Amjad Ali himself produced Abdul Bari's letter. When cross-examined about it he said that he had been to Marishbari reservc. Some houses were burnt. This was due to conflicting claims to land. The land vested in the court of wards. This was set apart for settlement to people under schemes approved by the Government. He did not know if occupation of lands in the Reserve was legal or illegal. He went to see if relief could be given to the sufferers from arson. He took up the matter with the Chief Minister of Assam who wrote to him on 3rd August. He himself filed the D.O. along with other documents in this case. He stated that he did not tell the electors what he did in this matter, though he had conveyed it to some persons before the election. He

denied that he told the witnesses that the Marishbari arson was an act of communal violence and that the Hindus with the encouragement from the Congress had burnt the houses of Muslims.

184. Amjad Ali on his own showing had been to Marishbari to see that sufferers got relief. He could justifiably refer to his work in this respect. He could not resist producing documentary evidence of it in this case. Would he not have referred to it when carrying his election campaign? Presumably the letters produced were intended to serve as a justification for what was said about this incident and later possibly apprehending legal difficulties a different course was adopted.

185. Marishbari does not lie in Amjad Ali's constituency. Jahanuddin has been represented as the one whose references to this incident including the display of the partially burnt copy of the Holy Koran were persistent and emphatic. When an incident like this is woven into the texture of a seductive appeal on religious grounds it would easily assume a communal complexion. Here the allegations are that, it was wilfully and in express terms represented as an outburst of communal frenzy instigated encouraged or connived at by the Congress. Even making full allowance for any exaggeration that may have crept into the petitioners presentation of the case of the incident could easily form a link in the chain of matters utilised for appeals on religious and communal grounds.

186. The apprehension of the Congress Government banning Azan though referred to in Umaruddin's letter to the Chief Minister has been mentioned only by a few witnesses. The evidence bearing on this point does not appear to be adequate for a finding that this fear of Azan being stopped was an important part of the appeal on grounds of religion, though some references may have been made to this possibility.

187. In regard to the possible shifting of Jumma prayers from Fridays to Sundays and the allegations about compulsory worship of 'Tulsi' plant in South Salmara schools, the evidence falls far short of the standard. Stray or casual remarks may have been made at places by some of Amjad Ali's supporters but I found it difficult to hold that these two matters formed noteworthy planks or foundations for the systematic appeal on religious or communal grounds.

188. Documentary and circumstantial evidence discussed above provides ample justification for a finding that the Cattle Preservation Act, the Funeral Reforms Bill, the Namdhun Geet and the Marishbari incident were matters which were discussed at meetings of the P.S.P. which Amjad Ali and his supporters attended. They were the important points in the propaganda programme. They provided attractive grounds for a systematic appeal to voters on grounds of religion. The denunciation of the Congress was on grounds of an alleged religion or communal basis, and support for the view was derived from the four main planks of the election campaign. Oral evidence of the petitioner's witnesses to the effect that calculated persistent and a systematic effort was directed to showing the voters that in the Congress regime Muslim religion was not safe receives ample support from it. It is fully proved that Amjad Ali and his supporters represented at their meetings that intolerance with Muslim religion had occurred and it was likely to be repeated in different forms. The Congress was out to Hinduisse Muslim and thus banish, Islam and Islamic culture from the country. A Muslim on Congress ticket (the petitioner) was being painted as useless so far as the protection of the religious freedom and culture was concerned. All four matters mentioned above were fully exploited in support of the view that Islam would be in danger if the Congress was voted back to power. I entertain no doubts that Amjad Ali and his supporters who admittedly addressed so many meetings at different places and on different dates made systematic appeals to voters on religious and communal grounds. I regard this matter as proved beyond any reasonable doubt. I shall deal with the cases of the supporters of Amjad Ali under issue No. 5.

189. But this is all that may be regarded as proved. So far, oral evidence has supported from evidences which could not be fabricated and which is not easily impeachable. But oral evidence goes further than that. Some witnesses of the petitioner who deposed from personal knowledge about meetings in their villages or in their neighbourhood tried to state what each speaker said. Some others gave the gist of one speech and said that others followed suit. All witnesses of one meeting have not been able to give identical versions. In all cases evidence of specific instances at the trial was not identical or in complete harmony with the allegations in the petition. This is not at all surprising. Petitioner's witnesses may be literate, most of them are very few

of them who attended the P.S.P. meetings could be regarded as educated. They are not used to listening to long speeches on matters political and economic. They could be expected reasonably only to convey, the impressions they formed of what they had heard. No one kept any notes. Even the petitioner did not send any written report to any one higher up in the Congress hierarchy. The reports of Shri S. Singha also were oral. The statement of Shri Singha would show that the reports he received or made did not bring out what was said by different speakers at a particular meeting. They were reports pointing to the propaganda and the material that was utilised for it.

190. The witnesses came to make their statements about what they have had heard about a year after the elections. After this lapse of time it would not be possible for them to say what words were used by any speaker at any particular meeting.

191. I do not think it safe to base any finding on oral evidence alone as to what each speaker said at the meetings though oral testimony taken as a whole when seen with or in the light of documentary evidence carried conviction that the speakers—Amjad Ali, Jahanuddin Ahmed, Bibhuti Sarkar—whatever else they may have said, joined in making at almost all the meetings fervent, eloquent and impassioned appeals to voters on religious and communal grounds to vote against Congress candidates including the petitioner and to vote for P.S.P. candidates including Amjad Ali. Speakers other than Amjad Ali were contributing to the general appeal in furtherance of Amjad Ali prospects at the election. All speakers at least the three speakers named above, made use of one or more of the basic planks of the campaign for appeals on religious or communal grounds when they addressed the voters at different places.

192. Since the evidence seen as a whole leaves no room for doubt that there were appeals in the name of religion and they were systematic in the sense that all grounds of attack on the Congress organisation which carried religious appeal were fully exploited at all the meetings, I feel no hesitation in recording the findings that Amjad Ali has been guilty of the corrupt practice defined in section 123(3). The himself and his supporters with his knowledge and consent systematically appealed to voters on communal and religious grounds in furtherance of his election prospects. Amjad Ali's evidence even when reinforced by evidence led by Jahanuddin Ahmed and Bibhuti Sarkar fails to rebut the charge. It has no valuable circumstantial support. It is mainly oral and its value and effect, if any, is considerably impaired by documentary evidence produced by Amjad Ali himself.

193. It has been contended by Shri N. C. Chatterjee on the strength of 3, E.L.R. 248 (M. B. Harris v B. P. Digoi) that the words 'on ground of religion' in section 123(3) should not be given the very wide meaning which they were capable of bearing, the section should be read so as to conform to the provisions contained in the chapter on fundamental rights and to the right to religious freedom guaranteed by the constitution. He urges that on recognised principles construction it is open to the Courts to read the word 'only' in the section in order to give effect to the legislative intent and purpose.

194. Wadia J was considering the import of section 124(5) of the Representation of People Act, 1951 in 3, E.L.R. 248. The language of 123(3) of the Amended act is the same as that of 124(5). The words used are the same. The amendment has merely the effect of making the corrupt practice defined in 124(5) as a major corrupt practices under 123(3). The words 'systematic appeal' to vote for or refrain from voting on grounds of caste, community or religion' were interpreted in 3, E.L.R. 248.

195. I have carefully considered the process of reasoning the learned Judge (Wadia J) employed. He noticed that the language employed if given its plain meaning would forbid all references to religion for furthering prospects at an election, but observed that it should be so construed that it may not be obnoxious to any provision of the Constitution. This may be possible where the language of the Statute is not clear or unambiguous or where it is capable of two interpretations. In such cases the interpretation that gives effect to the expressed intention of the legislature and also saves it from being hit by any mandate of the constitution may be placed on it. A narrower meaning may in such circumstances be legitimately given to it.

196. In this case the language creates no difficulties of interpretation. It forbids appeals to voters on grounds of caste, community or religion etc, for furthering prospects at elections. Appeals on these grounds can take a large

variety of forms. They may be made by words spoken or written, by visible representations by use of symbols, insinuations suppressed suggestions, sarcasm and by necessary implications of utterances or writings. Comment or criticism on grounds of religion would be another method. The scope of the section is no doubt very wide and this may not be restricted by reading the word 'only' in the section which the legislature did not think fit to place there. Reading the word in the section would stretch the process of interpretation the function of the judiciary to legislation which is completely out of its province. If words bear two meanings, one may be preferred which fits in with the context advances legislature purpose and saves the Act or the provision in question from being hit by any provision in the constitution. When ordinary meaning of the words is clear when they can bear only one meaning that meaning must be given even if the law is hit by the constitution and has to be declared *ultra-vires*.

197. It seems to me that the section interpreted in its widest sense expresses the purpose of the legislature and the object which it was intended to serve. The object is in consonance with the spirit of the Constitution. India is a secular State. Separate and communal electorates do not exist. The communities have no separate representation on religious grounds. If appeals on grounds of religion caste, race and community had been permitted even along with other planks of election campaign considerations of religion and community may and at some places will result in the election of people with communal or sectarian out-look. The evil sought to be remedied would persist. In the legislature we may then look for candidates returned on religious or communal grounds and not on political or economic considerations. The electorate and the legislature may be divided into religious and communal compartments. The body politic may be infected again with communal virus. The purpose of section 123(3) was to exclude appeals on grounds of community, religion etc., with or without other planks in election campaigns. The language of section as it stands is suited to the achievement of the purpose in view.

198. If the provision is obnoxious to any provision of the Constitution, it should be declared void and un-constitutional. Even the principle that 'all words if they be general and not express are to be restricted to the fitness of the matter' would not afford any justification for reading the word 'only' in the section. With great respect to the learned Judge, I think that whitfiling down the ordinary and plain meaning of words by reading the word 'only' in the section is not the appropriate course. The interpretation should not where the language is clear be influenced by extraneous considerations such as the policy or the intention of the law or the reference to or the analogy of other enactments—1944 Lahore 266 A.I.R.(F.B.) Sardar Singh v. Rclu & others: The courts have to find out what the legislature meant but what it has said that it meant and no modification of the language to meet that intention can be made—New Piece goods v. Comissioner I.T.A. 1950 S.C. 165. Even when there is *casus omissus* it is for the legislature and not for the courts to remedy the defect—1953 S.C. 148—150 A.I.R.

199. In 6. E.L.R. 316 (Sardul Singh Caveshar v. Ilukam Singh and others) it was held that the scope of section 124(5) of the Representation of the People Act 1951 [now 123(3)] which makes systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion a corrupt cannot be narrowed down to a prohibition of attacks on a particular religion or on a candidate only on the ground that he is a follower of a particular religion, I agree with this view.

200. The constitutional validity of the provision in question was challenged in 10. E.L.R. p 120 (Jamuna Parsad Mukhariya and others v. Lachhi Ram and Others) by Mr. Chatterjee himself. It was contended that it abridged freedom guaranteed to the citizen by Art. 19(1)(a). The appeal in that case was found to have been on grounds of caste. The contention of Mr. Chatterjee did not prevail. Their Lordships observed as follows:—"there is nothing in this contention. These laws do not stop a man from speaking. They merely prescribe conditions which must be observed if he wants to enter Parliament. The right to stand as a candidate and contest an election is not a common law right. It is a special right created by the statute and can only be exercised on the conditions laid down by the statute. The Fundamental Rights Chapter has no bearing on a right like this created by statute. The appellants have no fundamental right to be elected members of parliament. If they want that, they must observe the rules. If they prefer to exercise their right of free speech outside these rules, the impugned sections do not stop them. We hold that these sections are *intra vires*".

201. Section 123(3) thus being undisputedly valid constitutionally, there is no reason why its word should not bear their ordinary meaning. There is no justification for restricting their import. The legislature had the power to curtail freedom of speech in relation to the exercise of the right to stand as a candidate for election.

202. In 6, E.L.R. 316, the rival candidates were Sikhs. The successful candidate was on congress ticket. In this case the Congress was referred to as interfering with Sikh religion. It was observed in this case as follows:—

"In the above mentioned passages interference of the Congress with Sikh religion is assumed and the necessity of avoiding that interference is made a plank for asking the voters to refrain from voting for the congress candidate. It is true that in this particular case the Congress candidate happens to be of the same religion, but in view of the congress policy as interpreted in these papers even a Sikh Congress candidate cannot be a defender of their faith and therefore, the Sikhs must vote an Akali party Sikh into the legislature. This in our view clearly implies an appeal to vote for the Akali party candidate on the ground of his religion because in view of the interference of the congress with that religion a congress candidate must be ruled out. Such a propaganda done on the eve of elections should necessarily imply an appeal to vote or refrain from voting even if in every case there is no express appeal made to the voters about casting votes".

203. I am in full agreement with the view which prevailed in this case, and I entertain no doubt that systematic appeal made to voters as found above amounts to a corrupt practice under section 123(3). The appeal was extensive. The respondent and his supporters created an atmosphere surcharged with communal bias.

204. Mr. Bose, the learned counsel for the Opposite parties has relied on the judgment of Mr. B. C. Barua in Bazlul Basit v. Sahadat Ali. I have carefully gone through this judgment. I have found it extremely difficult to subscribe to the view which prevailed in this case. Shri B. C. Barua noticed that the view of the Bombay Tribunal (Wadia J) that the wider interpretation could not be put on old section 124(5) of the Act because of its repugnancy to the fundamental right of freedom of speech, stood overruled. He, however, proceeded to observe that he was in respectful agreement with the main principle formulated in that case, namely that in enacting that section the Parliament only aimed at preventing the mischief of voting for or against a candidate only because of his religion, caste, race or community and that a restricted interpretation should be put on the unduly wide terms of the section, in consonance with the directive provisions of the Constitution as embodied in Art 15, 16, 23, 29, 325 of the Constitution.

205. The principle referred to by Mr. Barua has been reproduced in judgment of Wadia J. In the words of Wadia J. It was as follows:—"The object of section 124(5) of the Representation of the People Act was to introduce the principles of the non-discrimination between different castes, communities and religions which was comprehensively laid down by the Constitution of India and the said clause has merely carried into effect in the sphere of the law of elections the provisions of Art. 15, 16, 23, 29, 325 of the Constitution of India the mischief which section 124(5) aims at preventing was the voting for or against a candidate only because of his religion, caste, race or community and that being the real object of the section we must put a restrictive interpretation upon the unduly wide terms of section 124(5)".

206. The learned Judge put a restricted interpretation on the unduly wide terms of section 124(5) in order that it should give effect to the object of section 124(5) of the Representation of the People Act. The process by which he ascertained the object of the section 124(5) is clear from his judgment. He began by interpreting the section with these remarks—'Section 124(5) has to be construed not by itself but in the light of the constitution and the intention of its framers. It is therefore necessary to construe the provisions of the Representation of the People Act in such a manner as to bring them into harmony with the intention of the framers of the constitution especially with regard to the fundamental rights provided for by Part III. The conclusion was stated at p. 276 is in the following terms:—"When we examine section 124(5) of the Representation of the People Act in the light of these provisions of the Constitution of India we are, we think, Justified in assuming that the object of section 124(5) of the Representation of

the People Act was to introduce into it this principle of non-discrimination between different castes, communities and religions which was emphatically laid down in the constitution of India. Section 124(5) has merely carried into effect in the sphere of the law of elections the provision of Art. 15, 16, 29, and 325 of the Constitution of India. The mischief which section 124(5) was aimed at preventing was the voting for or against a candidate only because of his religion, caste, race or community and if that was as we apprehend it was, the real object of the section, we must put a respective interpretation upon the unduly wide terms of section 124(5)." He thought that the legislature could not have gone beyond or against the provision contained in the Constitution. He could not attribute to them any intention of abridging freedom guaranteed to the citizen as this would have been a violation of the provisions contained in the constitution. This was the only basis on which he reached his conclusion as to the object of section 124(5). This object has not been expressed by the legislature in the Act, or the preamble. The statement of objects and reason has provided no guidance. Having thus ascertained the object he felt justified in reading the word 'only' in the section for without it a narrow meaning could not be given to the Section.

207. With profound respect to the learned Judge I am not persuaded to hold that it is open to a Court to discover the intention of the Legislature in enacting a provision by reference to the provisions of the Constitution of India. Legislatures have without intending it, exceeded their powers. Laws have been framed which sometime offend against the mandates of the Constitution. In such cases the courts can not validate laws by reading something into the provisions contained in a statute which is not there. The impugned law has to be adjudged *ultra vires*.

208. In the absence of any other relevant material, the object of provisions in the statute can be ascertained only by giving ordinary meaning to the words used. The function of the court is not to ascertain what the legislature intended to enact or meant but what it said that it meant. There is no justification for inserting words to give effect to intention not expressed by the legislature.

209. If there was any justification for the process of reasoning employed it has been taken away by the decision of their Lordships of the Supreme Court in 10, E.L.R. 120. The ratio of the decision of Wadia J has become obsolete. Its principle which is not distinguishable from its ratio also does not bear scrutiny now.

210. Whilst merely emotional or controversial issues may be raised at elections an election may not be fought on appeals to voters on grounds of caste, community or religion. If a religious minority feels that the freedom of religious practice guaranteed to it has been curtailed by legislation or an executive act it may utilise its freedom of speech at all times for ventilating its grievances and for obtaining redress. Individuals, who are not candidates at an election may also give expression to their views. Even agents and supporters of candidate may do so but not with the consent of the candidate. The prohibition enacted by the sec. 123(3) is extremely limited. It forbids appeals on grounds of caste, community or religion by the candidate, his agents and supporters with his consent for the furtherance of his election prospects. The clear and emphatic pronouncement of their Lordships of the Supreme Court in 10, E.L.R. concedes to the legislature the competency to limit the freedom of speech in the conduct of election campaigns. When considering whether the provision in question [sec. 124(5)] was *ultra vires*, the wide meaning that its words bear was assumed and taken into consideration. Despite curtailment of the freedom of speech guaranteed by Art. 19(1)(a) for the candidate in the matter of election, the impugned provision was found valid on the ground that any conflict that it involved with the provision in the Constitution would not make it invalid as the right to stand in an election is a creature of the legislature and it can be hedged in by restrictions which may whittle down somewhat the freedom of speech for furthering election prospects. Section 123(3) does not prevent even a candidate from expressing his views if he feels that his religious freedom has been abridged by legislation or an executive act provided that the expression of his view does not take the form of an appeal to voters to vote for or against someone on grounds of caste, race, community or religion etc. The legislature was competent to place this restriction on the fundamental right of a candidate for an election. It was a very necessary restriction if the secular character of the state is to be maintained. It would also be a justifiable restriction on the guaranteed freedom in the interest of the security of the state. If appeals to community, race or religion are permitted if grievances about curtailment of religious freedom could be made use at elections, the purpose of abolishing separate electorates would be completely frustrated. The citizens and the legislatures would be divided once

again into religious or communal compartments making repetition of history possible. I entertain no doubt that an appeal to voters which falls within the ambit of section 123(3) constitutes a corrupt practice which vitiates an election.

211. Mr. Lahiri contended that the corrupt practice alleged and proved falls under section 123(2) also he urged that the allegations made in para. 8, 9, 10 and 11 of the petition set up a case of under influence as well and that evidence seen in the light of these allegations would show that Amjad Ali and his supporters were also guilty of exercising under influence on the voters.

212. I am not impressed with this argument. I have carefully gone through the petition and have noticed all allegations made in it. The petitioner's case is put at its highest pitch in para 8, where it is averred that these voters are mostly illiterate, simple and susceptible to false religious propaganda and the opposite party, being also a member of the minority community took full advantage either himself or through his supporters and also through the Assembly candidates from the P.C.P and other independent candidates and carried mischievous propaganda on religious and communal lines amounting to corrupt practices and this led a majority, * * *."

213. In para 9 the subject matter of the propaganda is given. The heads under which it was carried on are set out in details.

214. In para 10, we have specified instances of the alleged propaganda on religious and communal lines. The contention that the alleged propaganda amounted to an appeal on religious and communal grounds is repeated adnaseum. In para 11 it was averred that the religious sentiments and susceptibilities were fully exploited by the opposite party, and his supporters and a serious apprehension was created in their minds that their religious rights and freedom were not safe in the hand of the Congress Government and the party.

215. The word 'undue influence' is conspicuous by its absence from the petition. There is no hint or suggestion that there was any direct or indirect interference or attempt to interfere on the part of the candidate or his agent or of any other person with the free exercise of any right. Whilst the language of section 123(3) is repeated frequently the petitioner did not venture to put forward the plea that this propaganda attributed by him to his rival candidate could also fall under section 123(2).

216. Issues were settled with the consent of the parties. The very first issue, the most important one in this case, involves the question whether there was an appeal to voters on religious or communal lines. There was no issue on the point whether undue influence was exercised or attempted for interference with the right of voting. Issues two and three refer to the same corrupt practice which forms the subject matter of Issue No. 1. It seems to me that till the case reached the argument stage all that the petitioner was asserting was that a systematic appeal on religious and communal lines had vitiated—the election. If undue influence was sought to be alleged it was done in such a way that due notice of it was not conveyed to the respondent.

217. To constitute 'undue influence' within the meaning of section 123(2) of the Act it is not necessary that there should be any actual threat or physical compulsion, but the method of inducement adopted should convey to the mind of the person addressed that non-compliance with the wishes of the person offering the inducement may result in physical or spiritual harm to himself or to any other person in whom he is interested. Some fear of harm resulting from non-compliance with the request is an essential element in undue influence. Where the influence is said to be by a religious appeal it should be shown that it was made to appeal to the persons addressed that non-compliance would be considered to be irreligious or sinful. This kind of undue influence can generally be exercised by religious teachers or persons having reputation for learning and piety; it may be exercised by a news paper editor, if he has some standing in the society—vide (6, E.L.R. 316)—Sardar Singh v. Hukum Singh and others. The definition does not hit at influence or persuasion. Its essential requirement is expressed by the word 'undue'. It is the abuse of influence that makes it a corrupt practice. It is only when an element of compulsion whatever its form comes in that the influence becomes undue. This compulsion interference with the voters freedom in the exercise of his electoral right. The voter ceases to be a free agent. Undue influence, therefore, would generally take some form of co-ercion, intimidation or threat. A mere appeal to voters on grounds of religion or a mere appeal to religious prejudices is not undue influence.

218. Seen in this light the evidence adduced by the petitioner even if taken at its face value does not make out any case of undue influence. Mr. Lahiri has not referred me to any evidence in particular showing that anything was said or done which would amount to undue influence as distinguished from a systematic appeal to voters on grounds of religion, but mere appeal on grounds of religion is not synonymous with undue influence.

219. Petitioner deposed that Hafiz Nur Md. and others told voters that they would become Kaffirs by voting for the Congress. Another witness has also attributed this statement to Hafiz Nur Mohammad. This evidence is an improvement on the allegations in the petition and cannot be considered seriously. Petitioner himself did not make any serious effort to allege and prove exercise of undue influence by the respondent or any one of his supporters. In my view undue influence is neither alleged nor proved.

220. In view of the definite finding arrived at by me, the question about the standard of proof in election cases loses its importance so far as this case is concerned. It is not necessary for me to pronounce on it. The English and the American view is that election cases being civil in nature, may be decided on a balance of probabilities. The consensus of view in India in cases of corrupt practices particularly bribery which entails criminal liability seems to be that the alleged corrupt practice should be proved beyond any reasonable doubt.

221. Evidence Act admittedly applies to the trial of Election cases. The word 'proved' has been defined in the Act. A fact is said to be proved when after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought under the circumstances of the particular case to act upon the suggestion that it exists. This definition is applicable to all cases civil and criminal including probate and election cases. What appears so probable under the circumstances of the case to a prudent man that he is induced to act on the supposition that it exists is proof. The probability must be under the circumstances of the particular case. The statutory rule is flexible. The judge trying the case is the prudent man of law. His conscience is to be satisfied about the probabilities of the situation. They should carry conviction to him. A physical certainty is almost impossible in human affairs, and therefore, also in criminal cases. But judges have invariably insisted on proof beyond reasonable doubt in criminal cases. This may be regarded as the demand of prudence in criminal proceedings, but this demand may vary in degree with the change in the character of the proceeding. It is a rule of prudence rather than law which requires more stringent proof in criminal than in civil cases. The standard of proof in all proceedings is the requirement of the prudent man which varies with each case.

222. The reasons for a difference or approach in civil and criminal cases have been stated in the following terms by Best—"There is a strong and marked difference as to the effect of the evidence in civil and criminal proceedings. In the former a mere preponderance of probability due regard being had to the burden of proof is a sufficient basis of decision, but in the latter especially when the charge amounts to treason or felony a much higher degree of assurance is required. The serious consequences of an erroneous condemnation both to the accused and society the immeasurably greater civil which flows from it than from an erroneous acquittal have induced the laws of every wise and civilised nation to lay the principle though often lost sight of in practice that the persuasion of guilt ought to amount to a moral certainty or such moral certainty as convinces the minds of the tribunals as reasonable men beyond all reasonable doubt."—vide Sarkars Law of Evidence 9th Edition p. 29

223. The serious consequences which may flow from a wrong conviction particularly in serious cases like murder etc., call for great caution. The reasonable man of law is impelled to demand a higher standard of proof to avoid committing an irrevocable mistake with very serious consequences to the individual and the society. Even when he is so exacting he is within his rights under the definition given in the Evidence Act.

224. Election cases are not criminal proceedings. There can be no conviction. The procedure is not regulated by the criminal procedure Code. The serious consequences that may flow from a wrong conviction in criminal cases do not follow. A returned candidate may lose his seat if found guilty of a corrupt practice. He may also lose his right to vote for a specified period. Serious as these consequences are they are not as serious as the actual result of a wrong conviction. Argument by analogy has its dangers and analogy here is far from perfect or complete.

225. It may be argued that a finding that a person has committed a corrupt practice may entail liability to prosecution. But a finding in a civil case that a person has been guilty of perjury fabrication of evidence or forgery or that he has committed such injury to the person or property of another that he has incurred criminal liability would also expose him to a similar danger. The immediate result of the civil proceeding is some kind of civil liability. The disabilities resulting from a finding as to the commission of a corrupt practice involve no more than the loss of civil rights.

226. The conflict appears to have resulted from an effort to evolve a rigid rule of general or universal application. The legislature has not attempted it. The difficulty of the task is amply illustrated by the large number of cases expressing different shades of views. This attempt may well be avoided. There are also practical difficulties in completely discarding the rule of preponderance of probabilities in election cases.

227. In Probate cases the proceeding is of a civil nature, yet they have some distinctive features. The testator is not on the scene. Those who challenge the will are generally not parties or privies to it. Prudence has dictated clear proof of the due execution of the will and of a fit disposing mind. Even in election cases particularly where corrupt practices like bribery and undue influences are alleged very strict proof ought to be demanded. It is for the petitioner to establish the corrupt practice by reliable evidence and in the matter of onus the proceeding may be similar to a criminal proceeding in which the burden is on the prosecution to establish the charge. But in regard to the standard of proof a rigid rule placing the respondent in an election case on a level with the accused in a criminal trial does not appear to me to be necessary or desirable. I do not feel persuaded to subscribe to the rule that an enquiry into a corrupt practice is in the nature of a criminal case and that the respondent is in the position of an accused person and thus absolved from all responsibility to adduce evidence or to rebut the case of the petitioner.

228. The distinguished Advocates for the Respondent—Shri N. C. Chatterjee and Shri S. M. Lahiri the learned Advocate General, discussed the question at some length. I have under the circumstances thought it fit to make a few observations on it, as at present advised, though it was not necessary for me to pronounce on it for the purposes of this case. The evidence in this case when read as a whole has induced the finding that the petitioner has succeeded in proving beyond any reasonable doubt that the corrupt practice defined in section 123(3) has been committed by Amjad Ali and some of his supporters with his consent. The cases of his supporters will be dealt with under Issue No. 5.

229. Issue No. 1.—On the findings reached above, Issue No. 1 is decided in petitioner's favour to the extent that the respondent and some of his supporters carried on propaganda on religious and communal lines which constitutes a corrupt practice defined in section 123(3) of the Representation of the People Act, 1951.

230. Issue No. 2.—Though some supporters committed the corrupt practice defined in section 123(3) in furtherance of Amjad Ali's interests in the election, it has not been proved that the result of the election has been materially affected thereby. This part of the issue was not pressed. The difference in the number of votes is so large that mere appeals on communal or religious grounds could not explain it away. Notwithstanding the spate and the virulence of the appeals on religious and communal grounds, Dhubri and Mankashar seats of the Legislative Assembly were bagged by the Congress. From Gauripur an independent candidate who is a Hindu was returned. South Salmara constituency recorded no change. Sahadat Ali the sitting member retained his seat. In these constituencies Muslims are admittedly in a majority. Apparently they were not all carried away by the propaganda with a sinister appeal. Even Golakganj seat has gone to the Congress. Jahanuddin Ahmed, a P.S.P. candidate was returned from Bilashipara. Out of six seats from Dhubri Sub-Division the P.S.P. got only two. The Congress secured three. An independent candidate secured the sixth. From Baidbari circle petitioner secured 352 votes against 118 votes secured by Amjad Ali. This issue is decided against the petitioner.

231. Issue No. 3.—The election of Amjad Ali—respondent to the House of the People from H.P. 38—Dhubri Parliamentary Constituency, is found to be void on the ground that he and some of his supporters with his knowledge and consent appealed to voters to vote for him and other P.S.P. candidates and to vote against Congress candidates on religious and communal grounds. This constitutes a corrupt practice which is defined in section 123(3) of the Act. The issue is decided in favour of the petitioner.

232. Issue No. 4.—Issue No. 4 has not been pressed at all. There is no evidence on this point and it is answered in the negative.

233. Issue No. 5.—This issue was pressed only against Jahanuddin Ahmed, Sahadat Ali, and Bibhuti Sarkar. The learned counsel for the petitioner does not urge that proof against others was adequate for a finding of a systematic appeal to voters on grounds of religious or communal, even though there was evidence against them also that on occasions they indulged in appeals on communal and religious grounds. Azad Ali, Baul Fazl were candidates. Santi Roy, Hussain Ali Pradhani were the supporters of the petitioners. There is evidence that they also contributed to appeals on grounds of religion. This evidence, however, even if taken at its face value does not make out a case of systematic appeal against them. The case of Sahadat Ali is not different from the rest against whom charge of the corrupt practices is not pressed.

234. Capt. Williamson Sangma, Shamsher Ali, Afazuddin Mandal were said to have been associated with the Bhaidbari meeting only. There is no evidence against Capt. Williamson Sangma about the commission of any corrupt practice. Evidence against the other two also is not the best that should have been available. The charge against them was also not pressed very rightly.

235. Salyed Ali was an independent candidate. He has not been shown to be an agent or supporter of Amjad Ali. There is no proof that he did anything with Amjad Ali's consent in furtherance of his election prospects. We are thus left with the cases of Amjad Ali, Jahanuddin Ahmed, and Bibhuti Sarkar.

236. I have already recorded the findings that Amjad Ali and some of his supporters were guilty of the corrupt practice defined in section 123(3). After the completion of the enquiry against Amjad Ali argument was heard on 25th March, 1958. It was ordered that notices shall issue to Jahanuddin Ahmed and Bibhuti Sarkar under Section 99 to show cause why they should not be named. It was not necessary to issue notice to Amjad Ali at that stage. He had fully cross-examined, petitioner witnesses and produced his defence. The other two namely—Jahanuddin Ahmed and Bibhuti Sarkar have shown cause. They have cross-examined a large number of witnesses. They have also examined some witnesses in defence. This additional material has been taken into consideration not only in favour of Jahanuddin Ahmed and Bibhuti Sarkar, but in favour of Amjad Ali also.

237. The evidence against all these has been summarised and fully discussed above. Amjad Ali deposed that at Fakiraganj, Jaleswar, Chunari, Goalachar, Gauripur—Goahata, Kachari Hat, Chappar, and Lakhiganj, he, Jahanuddin and Bibhuti Sarkar addressed the gatherings. He also deposed that on 17th February at Bengalipara and on 22nd February at Goalachar he and Jahanuddin Ahmed addressed the meeting. On 23rd February he and Bibhuti Sarkar addressed the meeting at Dharamsala. Both Jahanuddin Ahmed and Bibhuti Sarkar are admittedly members of the P.S.P. and were supporting Amjad Ali. Jahanuddin Ahmed was a P.S.P. candidate for an Assembly seat and was as much interested in the contest as Amjad Ali himself.

238. Jahanuddin Ahmed was a member of the Municipal Board, Dhubri for two terms and member of the Local Board for three terms. He was a member of the Legislative Assembly from 1937 to 1945. He was returned on independent ticket. After his election he joined the United People's Party with the late Sir Sahadulla as the leader. Later, Sir Sahadulla Khan and a majority of the United Peoples party joined the Muslim league. He followed the late Shri Rohini Kumar Choudhury after a break from Sir Sahadulla's party. In 1952 he stood on Socialist party ticket and was defeated. Umoruddin, an independent candidate succeeded. In the last election Jahanuddin Ahmed was a P.S.P. candidate from the Blashipara constituency. He was elected. He has supported Amjad Ali in regard to dates and places of meetings addressed by them together. He was convicted for alleged embezzlement, but was acquitted on appeal. He was also convicted for contempt of court. He was detained for a month under the Preventive Detention Act. At present a complaint under sections 323 and 447 is pending against him, his brother and his brother's son. The complainant is his brother-in-law. Two of his sons are serving under the Pakistan Government. The Local Board was suspended when he was its chairman.

239. He could give the name of only one person who asked questions at Gouripur. He denied that other persons who asked question were P.S.P. workers. He has stated that only Amjad Ali answered the questions. He was asked if he had stated in his written statement in Bazlul Basit case that different person answered the questions. He could not recollect if he had done so.

240. Bibhuti Sarkar was in the Socialist wing of the Congress before 1948. He was a member of the Assam Pradesh Congress Committee and suffered imprisonment on the two occasions in 1930 and 1942. When Socialists broke away from

the Congress in 1948 he also left the Congress. He has deposed that P.S.P. is a recognised national party.

241. On his own showing he addressed meetings (1) at Fakiraganj, (2) Jaleswar, (3) Chunnari and (4) South Salmara. On 23rd January he crossed over to the north bank. He was present in the meeting at Gauripur Goahata. On 7th February he went to Bilashipara with Jahanuddin Ahmed. He was again on the South Bank and toured that side from 17th February to 24th February. He attended meetings at Chappar, Lakhiganj, and Bilasipara Hat. He has denied having attended the meeting at Dharamsala, and thereby contradicted Amjad Ali on this point. He deposed that he could not remember if he opposed the candidature of J. Das for the Presidentship of Dhubri District Congress Committee before he came out of the Congress fold and denied the suggestion that he left the Congress as he had failed to put his nominee in the position of the President of the Dhubri District Congress Committee.

242. He admitted that when Amjad Ali spoke he was doing so for all the party candidates. They were agreed on the line of propaganda, issue of hand bills and the election manifesto. He admitted that Amjad Ali when speaking about the Assam Cattle Preservation Act said that a similar bill was sought to be moved in the Parliament and added that Amjad Ali did not express any opinion whether it was for the good of the Muslims or otherwise. He could not give the name of any person who asked questions about the Assam Cattle Preservation Act in the meetings in which it was admittedly discussed. He denied suggestions about appeals on religious and communal grounds.

243. It is obvious from the statements of Jahanuddin Ahmed and Bibhuti Sarkar that they were Amjad Ali's chief supporters. They have admittedly attended most of the important meetings. Evidence as to the utterances in the meeting is the same. On that evidence when examined in the light of additional material placed on the record by or on behalf of Jahanuddin and Bibhuti Sarkar I have come to the conclusion that Amjad Ali and some of his supporters with his consent carried on propaganda in furtherance of his election prospects by telling the voters to refrain from voting for the Congress candidates and to vote for the P.S.P. candidates on religious and communal grounds. The supporters who like Amjad Ali were guilty of a systematic appeal on the lines stated above are Jahanuddin Ahmed and Bibhuti Sarkar. Jahanuddin Ahmed a P.S.P. candidate was helping himself too. I have reached this conclusion notwithstanding some differences between the parties as to dates and places of some of the meeting. It has been urged that there were Hindu voters and therefore propaganda on communal grounds had its risks. It is common ground that four out of six constituencies of the Dhubri Sub-division which are parts of the Parliamentary constituency are muslim majority areas, and in the two others though muslims are in minority their members are very substantial. This is what the petitioner has deposed and there has been no serious challenge to this statement. In fact taking petitioner's statement for granted it was argued that it was in one only out of the four muslim majority areas that a P.S.P. candidate succeeded despite allegations of communal and religious propaganda. Seeing the proportion of the Muslims in all these six constituencies taken together, there was no great risk for Amjad Ali if propaganda on the lines as alleged was carried on openly. The fact that only one out of four P.S.P. candidates secured a seat in muslim majority areas has no bearing on the question that arises under Issues No. 1 and 3. If propaganda which falls under the ambit of section 123(3) was carried on in fact, there would be a corrupt practice even though its purpose was not achieved.

244. I think evidence on record leaves no room for doubt that all three—Amjad Ali, Jahanuddin Ahmed, and Bibhuti Bhusan Sarkar with Amjad Ali's consent were guilty of a systematic appeal to voters to vote for the P.S.P. and refrain from voting for the Congress on grounds of community and religion in furtherance of Amjad Ali's, election prospects, and were thus guilty of the corrupt practice defined in section 123(3). They have thus incurred the liability to be named under section 99.

245. It has been pointed out on behalf of Jahanuddin Ahmed that the election petition against him abated. He was a party to Bazlul Basit's petition. This petition was dismissed by Shri B. C. Barua, Member, Election Tribunal, Gauhati. He was not named. On the strength of these decisions it is argued that the question whether Jahanuddin Ahmed was guilty of the corrupt practice which has been attributed to him in Bazlul Basit's petition could not be agitated afresh in this case. In other words, the contention is that Shri B. C. Barua's decision operates as a bar to any finding adverse to Jahanuddin Ahmed on the charge hurled against him. The contention does not seem to me to be sound. Bazlul Basit was a candidate for a seat in the Assam Assembly. His constituency was one out of the ten

constituencies which constitute the Parliamentary constituency from which Amjad Ali and the petitioner were the candidates. The two constituencies in question can not be identical in any respect. They differ widely in area and voting strength.

246. The parties to the two cases are different and so are the issues. The evidence also is not the same.

247. The jurisdiction of the two Tribunals is not concurrent.

248. Shri B. C. Barua did not hold that Jahanuddin Ahmed did not commit any corrupt practice as a supporter to Amjad Ali. This was not the question before him.

249. The finding in that case was that there was propaganda of a communal or religious nature on the basis of the Assam Cattle Preservation Act in the main. The Funeral Reforms Bill and Ramdhun Geet were utilised in a subsidiary way.

250. The learned Judge however, found that this propaganda was permissible in law. His view of the law is not binding on the parties to this case. I have found it difficult to subscribe to it with great respect to him. Mr. Bose has not referred to any provision in the Statute or to any precedent in support of his contention that the decision in Bazlul Basit's case constitutes a bar to a trial of the charge of corrupt practice against Jahanuddin Ahmed in relation to Amjad Ali's election or that a different view from that which prevailed with Shri B. C. Barua is not possible for me to take.

251. The analogy of criminal cases is not apt. There is no question of acquittal or conviction. The issue before me is whether Jahanuddin Ahmed has been guilty of a corrupt practice as a supporter of Amjad Ali. This has not been tried before.

252. I see no substance in this contention.

253. In the course of the argument Mr. Bose referred to section 140 of the Representation of the People Act. He seemed to apprehend that the finding against Jahanuddin Ahmed of having been guilty of a corrupt practice may result in the avoidance of his own election to the Assam Assembly. The finding has been arrived at upon the trial of a election petition under part VI. As a result he would stand disqualified for a period of six years from the date on which the finding take effects for voting at any election under section 141 of the Act. The applicability of section 140 is also attracted. The same finding also entails a disqualification for membership of Parliament and the Legislature of any state for a period of six years commencing from the date the finding takes effect. The disqualification appears to me to be prospective and not retrospective in character. Jahanuddin should, therefore would be disqualified for membership for six years from the date the disqualification operates. If disqualification is not removed he would not be eligible for candidature in the next election. Could it also result in the avoidance of his election to the State Assembly? Under section 80 of the Act no election can be called into question except by an election petition presented in accordance with the provision of Part VI of the Act. A petition was so presented. It has abated. Mr. Bose's view seemed to be that this election should remain unaffected despite the disqualification which could attach to Jahanuddin Ahmed under section 140 of the Act. Though section 80 appears to support his contention there are other provisions of the Act which bear on the matter. It is not, however, necessary for me to give any finding on this question in this petition, and therefore, I refrain from pronouncing on it. Even if Mr. Bose's fears were well founded I don't see how I could decline to exercise jurisdiction in the matter which forms the subject matter of issue No. 5 or refuse to discharge my obligations under section 99 by giving findings which it is obligatory on an election tribunal to give.

254. As a result of the findings recorded above, the election of Amjad Ali to the House of the People from H.P. 88—Dhubri Parliamentary Constituency is declared void under section 98(b) read with section 100(b) of the Representation of the People Act.

255. Mr. Lahiri has somewhat faintly argued that the petitioner be declared elected if election of Amjad Ali is found void. I have come to the conclusion that the election of Amjad Ali is void. But it does not follow that the petitioner becomes entitled to be declared that he was duly elected. The election of Amjad Ali has been adjudged void on the grounds that he has been guilty of a corrupt practice. The petitioner has failed to show that the result of the election has been materially affected by reason of the corrupt practice committed. This relief is refused.

256. The parties to this case took up extreme position. They have not been able to substantiate all they alleged. The petitioner has succeeded on issues No. 1 and 3, he has not succeeded on Issues No. 2 and 4. His success on issue No. 5 is partial. I have also found it difficult to believe that Amjad Ali and his supporters confined themselves to a discussion of the religious and communal matters only. That would be extremely improbable. Amjad Ali is in no better position. His case was that there was no appeal to voters on religious or communal grounds. The planks of his campaign attributed to him in this petition was totally repudiated. He had to admit that in some meetings at least, the Act came up for discussion, a concession which find no place in the written statement. His version was that propaganda on his side was limited to matters purely political or economic, has been amply disproved. He also has not been able to substantiate his case. The main issue has been decided against him. But the propaganda carried on by Amjad Ali and his supporters was to a certain extent invited or induced by circumstances over which they had no control. The Act which was passed in 1951 was given effect to just at the eve of the elections in 1956. It need not surprise any one if Muslims or a large section of them did not feel happy about it. Its controversial character cannot be disputed. The Funeral Reforms Bill thrown out in the Lok Sabha was an attempt of a similar character. The singing of Ramdhun Geet in some Schools with Muslim students and teachers could well have been resented by some Muslims as it actually was. Even as a song of prayer to God it may not appeal to Muslims except the very few liberal ones to adopt it for their prayers or to invoke God in the typically Hindus style. The combination of circumstances was such that it could evoke adverse criticism. It provided an extremely tempting approach in areas predominantly Muslim in character.

257. Another circumstance of importance is that the law on the point, whether appeals on grounds of religion, community etc., when coupled with appeals on matters which do not fall within the purview of section 123(3) constitute a corrupt practice. I have found that they do. Shri B. C. Barua even after the Supreme Court's decision in 10, E.L.R. 120, has followed what he has described as the principle of the Bombay decision. Shri N. C. Chatterjee has relied on the Bombay decision before me. Their Lordships of the Supreme Court found section 123(3) *intra vires* on the assumption that it involved a conflict with the provision of the Constitution contained in Art. 19(1)(a), but they did not give their interpretation of the provision. In the circumstances the law as to the import of section 123(3) may not have been regarded as settled when the elections were held in 1957. The Respondent may have believed that the propaganda if it was not purely on religious and communal grounds, was not within the mischief of section 123(3). He may possibly have regarded the law as in a state of flux. In fact his conduct in relation to some documents produced by him in this case leads to the inference that at least at the early stages of the trial he contemplated giving evidence in justification of his criticism of the Act, the bill and the Ramdhun Geet. If this was his view even after the filing of the petition, his propaganda could be in the belief that there was justification for it. Considering the state of the law at the time and Amjad Ali's conduct in relation to this trial, the possibility about an erroneous belief as to the correct legal position remains. This could have been a contributory factor. These circumstances have a bearing on the question of costs as also on the exercise of powers of the Election Commission under sections 140A and 144 of the Representation of the People Act. I think in the circumstances aforesaid it is appropriate that the parties should bear their own costs.

258. For reasons given above the election of Amjad Ali is declared void, under section 98(b) read with section 100(b), and Nazmul Haque, petitioner is not declared duly elected.

259. Under section 99(1) I find that Amjad Ali himself, and Jahanuddin Ahmed and Bibhuti Sarkar, his supporters with his consent committed the corrupt practice defined in section 123(3). The names of all three are recorded under section 99(1).

260. The parties shall bear their own costs.

R. LABHAYA,
Member,
Election Tribunal, Gauhati.

Dated Gauhati,
Dated the, 30th August, 1958.

[No. 82/237/67/1195].
DIN DAYAL, Under Secy.

New Delhi, the 20th November, 1958

S.O. 2446.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby appoints the following four officers, in addition to those appointed by its notification No. 434/6/56(1), dated the 7th January, 1957, to assist the Returning Officer for the Hoshangabad Parliamentary constituency in the performance of his functions, namely:—

1. The Personal Assistant to Collector, Hoshangabad.
2. The Sub-Divisional Officer, Hoshangabad.
3. The Personal Assistant to Collector, Narsimhapur.
4. The Sub-Divisional Officer, Narsimhapur.

[No. 434/6/58(1).]

By order,

S. C. ROY, Secy.

MINISTRY OF LAW

(Department of Legal Affairs)

New Delhi, the 20th November, 1958

S.O. 2447.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President hereby directs that all contracts and agreements relating to the printing work of the Signal Training Centre, Jubbulpore, shall be executed on his behalf by the Commandant, Signal Training Centre, Jubbulpore.

[No. F. 44(15)/58-J.]

P. K. BOSE, Dy. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi the 12th November, 1958

S.O. 2448.—In exercise of the powers conferred by sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby directs that the following amendments shall be made in the Schedule to the notification of the Government of India in the Ministry of External Affairs No. S.R.O. 21, dated the 23rd December, 1957, namely:—

In the said Schedule,—

(1) in Part I, before the heading "Naga Hills-Tuensang Area" in column 1 and the entries relating thereto in columns 2 to 4, the following heading and entries shall be inserted, namely:—

STATEMENT 1

1	2	3	4
<i>Secretariat</i>			
Assistant Information Officer	Secretary, Ministry of External Affairs.	Secretary, Ministry of External Affairs.	All
Information Assistant	Secretary, Ministry of External Affairs.	Secretary, Ministry of External Affairs.	All
		Director, External Publicity Division.	(i) to (iii)
Librarian, External Publicity Division	Secretary, Ministry of External Affairs.	Secretary, Ministry of External Affairs.	All
		Director, External Publicity Division.	(i) to (iii)
<i>Indian Missions' Posts Abroad</i>			
Assistant Press Attaché	Secretary, Ministry of External Affairs.	Secretary, Ministry of External Affairs.	All
Officer on Special Duty, Information Services of India, Cairo.	Secretary, Ministry of External Affairs.	Secretary, Ministry of External Affairs.	All
Information Assistant Translator, Librarian and Editor, in the Information Services of India		Head of Mission Post, if he is designated Head of a Department.	(i) to (iii)
<i>Central Passport Organisation</i>			
Superintendent	Secretary, Ministry of External Affairs.	Secretary, Ministry of External Affairs.	All
		Chief Passport Officer.	(i)

(2) in Part II, before the heading "Naga Hills-Tuensang Area" in column 1 and the entries relating thereto in columns 2 to 4, the following heading and entries shall be inserted, namely:—

STATEMENT II

1	2	3	4	5
<i>Secretariat</i>				
Line Operator	Director, External Publicity Division, Ministry of External Affairs.	Director, External Publicity Division, Ministry of External Affairs	All	Secretary, Ministry of External Affairs.
<i>Printer</i>				
<i>Indian Missions/Posts Abroad</i>				
Wireless Operator	Director, External Publicity Division, Ministry of External Affairs.	Director, External Publicity Division, Ministry of External Affairs	All	Secretary, Ministry of External Affairs.
Publicity Organiser		Officer of the rank of First Secretary or above or if there is no such officer, Head of Mission/ Post.	(i) to (iii)	Secretary, Ministry of External Affairs.
<i>Central Passport Organisation</i>				
Assistant; Upper Division Clerk; Lower Division Clerk and Stenographer.	Chief Passport Officer	Chief Passport Officer	All	Secretary, Ministry of External Affairs.
		Regional Passport Officer	(i)	Chief Passport Officer.

(3) in Part III before the heading "Naga Hills-Tuensang Area" in column 1 and the entries relating thereto in columns 2 to 4, the following heading and entries shall be inserted, namely:—

STATEMENT III

1	2	3	4	5
<i>Indian Missions/Posts Abroad</i>				
All Posts	Under Secretary, Ministry of External Affairs.	Under Secretary, Ministry of External Affairs.	All Officer of the rank of Second Secretary or above in respect of staff serving in Indian Missions:	Deputy Secretary, Ministry of External Affairs.
(i) to (iii) Deputy Secretary, Ministry of External Affairs.				
All Posts	Regional Passport Officer	Regional Passport Officer	All Posts abroad.	Chief Passport Officer.

[No. F. 6(1)-FSP/58.]

K. SANKARA PILLAI, Dy. Secy.

New Delhi, the 19th November 1958

S.O. 2449.—In exercise of the powers conferred by clause (a) of section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises (i) Shri R. N. Chopra, Registrar, Office of the Commissioner for the Government of India in Mauritius, and (ii) Shri B. S. Gujral, Assistant, Vice-Consulate of India, Zahidan, to perform the duties of Consular Agents with retrospective effect from the 5th and 15th October 1958, respectively and until further orders.

G. P. MATHUR, Attache (Cons.)

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 17th November 1958

S.O. 2450.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (10 of 1949), and in supersession of the notification of the Government of India in the Ministry of Finance No. F.4(46)-F.I/49, dated the 3rd August 1949, the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that during the period upto and inclusive of 31st December, 1959, the provisions of sub-section (1) of section 45 of the said Act shall not apply to the following banking companies, namely:—

- (1) The Chawla Bank Ltd.
- (2) The Colony Bank Ltd.
- (3) The Commercial Bank of India Ltd.
- (4) The Punjab & Kashmir Bank Ltd.
- (5) The Traders' Bank Ltd.

[No. F.4(131)-BC/58.]

D. N. GHOSH, Under Secy.

(Department of Economic Affairs)

New Delhi, the 19th November 1958

S. O. 2451.—Statement of the Affairs of the Reserve Bank of India as on the 14th November 1958.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	7,32,16,000
Reserve Fund	80,00,00,000	Rupee Coin	2,59,000
National Agricultural Credit (Long-term Operations) Fund	25,00,00,000	Subsidiary Coin	4,65,000
National Agricultural Credit (Stabilisation) Fund	3,00,00,000	Bills Purchased and Discounted :—	
Deposits :—		(a) Internal	..
(a) Government		(b) External	..
(i) Central Government	63,33,26,000	(c) Government Treasury Bills	4,68,64,000
(2) Other Governments	18,17,22,000	Balances held abroad*	18,32,54,000
(b) Banks	79,88,20,000	**Loans and Advances to Governments	22,25,37,000
(c) Others	114,48,02,000	Other Loans and Advances†	58,28,24,000
Bills Payable	14,67,33,000	Investments	302,52,26,000
Other Liabilities	20,07,00,000	Other Assets	10,14,58,000
Rupees	423,61,03,000	Rupees	423,61,03,000

Dated the 19th November 1958.

*Includes Cash & Short term Securities.

**Includes Temporary Overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 96,00,000/- advanced to scheduled banks against usance bills under Section 17(4) (c) of the Reserve Bank of India Act.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 14th day of November 1958.

ISSUE DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Notes held in the Banking Department	7,32,16,000	A. Gold Coin and Bullion :—	
Notes in circulation	1585,92,40,000	(a) Held in India	117,76,03,000
Total Notes issued	1593,24,56,000	(b) Held outside India
TOTAL LIABILITIES	1593,24,56,000	Foreign Securities	164,67,56,000
		TOTAL OF A	282,43,59,000
		B. Rupee Coin	136,08,26,000
		Government of India Rupee Securities	1174,72,71,000
		Internal Bills of Exchange and other commercial paper
TOTAL ASSETS	1593,24,56,000		1593,24,56,000

Dated the 19th day of November 1958

H. V. R. IENGAR, Governor.

[No. F. 3(2)-F. 1/58.]

A. BAKSI, Jt. Secy.

(Department of Revenue)

ORDER

STAMPS

New Delhi, the 17th November 1958

S.O. 2452.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty chargeable under the said Act in respect of the following instruments executed by the High Commissioner for the United Kingdom in India, namely:—

- (1) Lease deed dated the 10th October, 1958 in respect of ground floor flat at No. 107, Jorbagh, New Delhi.
- (2) Lease deed dated the 12th October, 1958 in respect of first floor flat at No. 13/39 Chanakyapuri, New Delhi.
- (3) Lease deed dated the 16th October, 1958 in respect of ground floor flat at "Parkview", No 12, Nizamuddin East (Jaipur Plots) New Delhi.

[No. 37.]

G. S. SAWHNEY, Under Secy.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, BANGALORE

Bangalore, the 19th June, 1958

S.O. 2453.—In exercise of the powers conferred on me under rule 233 of the Central Excise Rules 1944, I hereby direct that every manufacturer of Vegetable non-essential oils within the jurisdiction of the Central Excise Collectorate, Mysore, shall within 15 days of the publication of this notification, maintain (1) a 'Dip' Register in the form prescribed at Annexure 'A' in respect of oil stored in the bonded storage Tanks and (2) 'Stock cards' in form prescribed at Annexure 'B' in respect of oil packed in tins, barrels, etc. and stored in the Bonded Store room within the licensed factory premises.

ANNEXURE 'A'

Records for dips taken

Capacity	Dimensions		Mds.		Seers		
	Tank No.	Calibration per inch.	Tons	Cwt.	Ibs.		
Date	Time	Dip reading	Quantity	Receipt into the tank	Issues from the tank	Balance	Remarks
1	2	3	4	5	6	7	8

NOTE:— (i) One page should be allowed for each tank for a month.

(ii) Dip reading should be noted before and after each operation whether pertaining to receipt or issue.

(iii) Only one operation either receipt or issue will be permitted at one time from a tank with minimum of 2 hours interval between each operation.

ANNEXURE 'B'

Form of the stock card

Stock Card No. :

Name of the factory:

L. 4, No.

Description of goods:

Date	Opening Balance		Receipts		Issues		Closing Balance		Remarks
	No. of tins or barrels	Net weight							
1	2	3	4	5	6	7	8	9	10

NOTE—Separate stock cards should be maintained for each variety and for each size of container used.

[No. 11/58.]

D. N. KOHLI, Collector.

COLLECTORATE OF CENTRAL EXCISE, CALCUTTA

CENTRAL EXCISE

Calcutta, the 17th November, 1958

S.O. 2454.—In exercise of the powers conferred on me by Rule 233 of the Central Excise Rules, 1944 read with Rule 227 ibid and in supersession of this office Notification No. 21/1957, dated the 12th December, 1957 and all other orders on the subject it is hereby notified that for the purpose of assessment of unmanufactured tobacco presented under item 91(5)(iii) of the First Schedule of the Central Excises and Salt Act, 1944, the sieve should correspond to the specifications indicated below:

Sieve designation I.S. 460-1953	Width of Aperture	Wire Diameter.
100	0.0394"	0.023"

[No. 16/1958.]

S. C. MATHUR, Collector.

BOMBAY CENTRAL EXCISE COLLECTORATE

CENTRAL EXCISE

Bombay, the 31st October, 1958

S.O. 2455.—In pursuance of Rule 197 of the Central Excise Rules, 1944, I empower the Sub-Inspectors of Central Excise of Bombay Collectorate also to exercise the powers conferred under Rule 197 of the Central Excise Rules, 1944, within their respective Jurisdiction.

This Notification modifies the previous Notification No. CER/233/T/1/57 dated the 10th January, 1957 to the above extent.

[No. G.S.R. 197/T/3/58.]

T. C. SETH, Collector.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE AND LAND CUSTOMS
BOMBAY

NOTICE

Bombay, the 19th November, 1958

S.O. 2456.—Whereas it appears that the marginally noted goods which were seized by the S.R.P. party at List attached.

a place called Kapas Temb-

In Klnare village on Goa

border on 19th May 1958 being exported by land to Goa (Portuguese Territory in India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of Commerce and Industries Export Control Order No. 1/54 dated 10th May 1954 read with their P.N. No. 4744 dated 23rd March 1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now therefore, any person claiming the goods is hereby called upon to show cause to the Dy. Collector of Central Excise and Land Customs Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act 1878 and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette/ the goods in question will be treated as unclaimed and the case will be decided accordingly.

Items of Seizure

S. No.	Description of goods	Qty.
1.	Georgette like sarees having flower design of different colours each of 6 yards	7
2.	Mysore sarees of 5 yards each	2
3.	Rose colour georgette like sarees having organdistraps of 5 yds. each	1
4.	Mysore type georgette sarees of 5 yds. each	2
5.	Red colour georgette saree having flower design of 5½ yards each	1
6.	Mysore type georgette like sarees of 5 yards	1
7.	Voil sarees having straps and flower design of 6 yards each	2
8.	Chit sarees of 6 yards each	2
9.	Silk pieces of different colours of 1 yards each	8
10.	Silk pieces of 1½ yards each	2
11.	Silk piece of 3 yards	1
12.	Chit cloth pieces of 1 yd. each	3
13.	Chit cloth pieces of 1½ yards each	2
14.	Voil chit cloth pieces of 1 yard each	2
15.	Chit cloth pieces of 3 yards each	2
16.	White shirting of 3 yards piece	1
17.	White cloth piece of 1½ yards	1
18.	White cloth piece of 6 yards	1
19.	Under-wear cloth piece having straps, 7 yards	1
20.	Blue colour drill cloth piece of 3 yards	1
21.	Pairs of chaddars	2
22.	Turkish towels	2
23.	Blouses	4
24.	Silk blouses	3
25.	Cotton blouses	2
26.	Sarins parkars of different colours	7
27.	Childs suit	1
28.	Small size sandow Banians	4
29.	Small size coloured Banians	1
30.	Childs cap (Topade)	1
31.	Child's cap	1
32.	Pillow covers	2
33.	Old turkish towel	1
34.	Old pant	1
35.	Old Sarecs	3

36. Tea powder			2 lbs.
37. Coffee powder			1 lb.
38. Photos with frames			2
39. Trunk of green colour			1
40. Empty glass jar			1
41. Dhane (Coriander seeds)			1/2 B. Mds.
42. Patri (mace)			1/2 seer
43. (Mir) Black peper			1 "
44. (Jire) communiseeds			1 "
45. (Halad) Turmeric			1 "
46. (Velchi) Cardmom			10 tolas
47. (Lawang) Cloves			1/2 seer.
48. (Dalchini) Cinnamon			1 "
49. (Badishep) Fennel			1 "
50. (Methi) Foenugreek grains			1 "
51. (Khaskhas) Poppy seeds			1 "

[No. VIII(b)10(175)Cus/58.]

S.O. 2457.—Whereas it appears that the marginally noted goods which were

1. Betelnuts 3 bags	2-B. Mds.-30 Srs.	seized by the Central Excise Officer, Satarda at a place
2. 7 O'clock blades ..	3950.	called 'Kalbachi Rai' in the jurisdiction of Ch. No. 17 &
3. Cloves	15 lbs.	18 on 27th April 1958 were
4. Tow bags Containing--Mace.	8 lbs.	imported by land from Goa (Portuguese Territory in

India) in contravention of Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of Commerce and Industries Import Control Order No. 17/55 dated 7th December 1955 issued under the Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now therefore, any person claiming the goods is hereby called upon to show cause to the Dy. Collector of Central Excise and Land Customs, Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878 and empty bags under Section 168 of the Sea Customs Act, 1878 and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b) 10(178) Cus/58.]

H. C. BAHRI, Dy. Collector.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 19th November, 1958

S.O. 2458.—In exercise of the powers conferred by sub-clause (1) of Clause 5 of the Cotton Textiles (Export Control) Order, 1949, the Central Government hereby makes the following further amendment in the Notification of the Government of

India in the Ministry of Commerce and Industry No. S.R.O. 1317 dated the 9th June 1958, namely:—

In the said Notification—

- I. in item A of paragraph 3, for the figures, mark and word, "3/4" wide", the figures, mark and word, "5/8" wide" shall be substituted;
- II. for the Note II below paragraph 5, the following shall be substituted, namely:—

"**NOTE II.**— The specification of maximum distance between different sizes of hoops for bales of cotton piecegoods meant for export.

Size of Hoops	Maximum spacing
5/8"	4"
3/4" and 7/8"	5"
1"	6"
1 1/4"	7"

Where cross hoops are used depending on the size of the bale the maximum spacing shall be:

Size of Hoops	Maximum spacing
3/4" and 7/8"	10"
1"	12"
1 1/4"	14"

All the bales containing Dhoties, Chaddars/Sheets, Pillowcases, Dusters and similar materials shall be bound with cross hoops.

Hoops under 5/8" wide and thinner than 20s gauge shall not be used."

[No. TCS. II/1(7)/58]
[No. 25(26)-TEX(A)/57-6]

S.O. 2459.—In exercise of the powers conferred by sub-clause (i) of clause 5 of the Cotton Textiles (Export Control) Order, 1949, the Central Government hereby makes the following further amendment in the Notification of the Government of India in the late Ministry of Commerce No. 67-CW(25A)/48, dated the 28th March, 1949, namely:—

In the said Notification, in the Table appended to paragraph 2, for serial No. 2 and the entries in columns 2 and 3 relating thereto, the following shall be substituted, namely:—

1	2	3
"2 Where the average count of yarn used in the cloth is 17s or finer but less than 26s.		Lower Medium
2A. Where the average count of yarn used in the cloth is 26s or finer but less than 35s.		Higher Medium"

[No. TCS.II/1(2)/58]
[No. 25(26)-TEX(A)/57-7]

New Delhi, the 21st November 1958

S.O. 2460.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following further amendments in the Notification of the Ministry of Commerce and Industry No. S.R.O. 1150, dated 30th May, 1955, namely:—

In the said notification,

I in Form CST-D,

(i) in Part I, for the headings

Coarse	Medium	Fine	Superfine	Total
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the following shall be substituted, namely :—

Coarse	Lower Medium	Higher Medium	Fine	Superfine	Total
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(ii) in Part II, for the headings and columns

Variety I	Coarse		Medium		Fine		Superfine		Fents		Total	
	Lbs. 2	Yds. 3	Lbs. 4	Yds. 5	Lbs. 6	Yds. 7	Lbs. 8	Yds. 9	Lbs. 10	Yds. 11	Lbs. 12	Yds. 13

the following shall be substituted, namely :—

" Variety	Coarse Lbs.	Lower Yds.	Medium Lbs.	Higher Lbs.	Medium Yds.	Lbs.	Fine Yds.	Lbs.	Superfine Yds.	Lbs.	Fents Yds.	Total Lbs.	Total Yds.	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

(iii) in Part III, for the heading and columns.

" Particulars	Coarse Yds.	Medium Yds.	Fine Yds.	Superfine Yds.	Fents Yds.	Total Yds.	Fents Lbs.
1	2	3	4	5	6	7	

the following shall be substituted, namely :—

"Particulars	Coarse Yds.	Lower Medium Yds.	Higher Medium Yds.	Fine Yds.	Superfine Yds.	Fents Yds.	Total Yds.	Fents Lbs.
1	2	3	4	5	6	7	8	

(iv) in Part IV, for the headings and columns.

“ Variety	Coarse Civil Exports (a) 2	Medium Civil Exports (a) 3	Fine Civil Exports (a) 4	Superfine Civil Exports (a) 5	Fents Civil Exports (a) 6	Total (2-3-4-5-6) Civil Exports (a) 7	Packing for other purposes (a) 8	Total (7-8) ” (a) 9 (b)
I								

the following shall be substituted, namely :—

“ Variety	Coarse	Lower Medium	Higher Medium	Fine	Superfine	Fents	Total (2-3-4-5-6-7)	Packing for others purposes	Total (8-9) ”
I	2	3	4	5	6	7	8	9	10

II. In form CST No. 'E',

(i) in Part II, for the headings and columns.

“ Variety	Coarse Yds. 2	Medium Yds. 3	Fine Yds. 4	Superfine Yds. 5	Total Yds. 6	”
I						

the following shall be substituted, namely :—

“ Variety	Coarse Yds.	Lower Medium Yds.	Higher Medium Yds.	Fine Yds.	Superfine Yds.	Total Yds.	”
I	2	3	4	5	6	7	

(ii) in Part III, for the headings and columns,

“ Coarse Yds.	Medium Yds.	Fine Yds.	Superfine Yds.	Total Yds.	”
I	2	3	4	75	

The following shall be [substituted, namely :—

“ Coarse Yds.	Lower Medium Yds.	Higher Medium Yds.	Fine Yds.	Superfine Yds.	Total Yds.	”
I	2	3	4	5	6	

[No. 2(12)-Tex (A) /58-1].
V. V NENE, Under Secy.

New Delhi, the 20th November 1958

S.O. 2461.—The following rules amended by the Hyderabad Oils and Seeds Exchange, Ltd., Hyderabad, in exercise of the powers conferred on it by sub-section (1) of section 9A of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), and approved by the Central Government are hereby published as required by sub-section (2) of that section, namely:—

In the said Rules,—

(1) For Article 60, the following shall be substituted, namely:—

"60. The Board of Directors shall consist of not more than fifteen directors inclusive of the President and Vice President and shall be constituted as under:

(a) Ten directors shall be elected by the authorized representatives of members of whom seven shall be authorized representatives of members from the Dealers' Panel and three shall be authorized representatives of members from the Crushers' Panel.

(b) Not more than four Directors appointed by the Central Government, one of whom to represent the Central Government and the others to represent interests not directly represented by membership of the Exchange, as set out in sub-clause (b) of clause (2) of section 6 of the Forward Contracts (Regulation) Act, 1952.

(c) Not more than one director, whether a member or not, co-opted by the Board, if it deems it fit and necessary.";

(2) For Article 62, the following shall be substituted, namely:—

"62(1). At the first Annual General Meeting of the Exchange to be held after these Articles come into force, all the elected directors shall retire and directors shall be elected in accordance with the provisions of clause (a) of Article 60.

(2) At the subsequent Annual General Meetings, one director from the Crushers' Panel and two directors from the Dealers' Panel shall retire. The provisions contained in sub-section (2), (3), (4) and (5) of section 256 of the Companies Act, 1956 (1 of 1956), shall apply to the election of directors in place of the retiring directors.

(3) The directors appointed by the Central Government shall hold office for the period for which they are appointed.

(4) The director co-opted by the Board shall retire at every Annual General Meeting along with the retiring elected directors".

[No. 33(25)-TMP/FMC/58.]

New Delhi, the 24th November 1958

S.O. 2462.—In exercise of the powers conferred by section 26 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), the Central Government hereby directs that the powers exercisable by it under section 11 of the said Act may also be exercised by the Secretary, Forward Markets Commission, Bombay.

[No. 32(17)-TMP/FMC/58.]

K. V. VENKATACHALAM Jt. Secy.

(Department of Company Law Administration)

ORDER

New Delhi, the 22nd November 1958

S.O. 2463.—In exercise of the powers conferred by section 3 of the Commissions of Inquiry Act (No. 60 of 1952) the Central Government hereby extends upto the end of September, 1959, the period of time within which the Commission of Inquiry appointed by the Government of India in the Ministry of Finance, Department of Economic Affairs by notification being S.R.O. 2993 dated the 11th December, 1956, as amended by the subsequent notification being S.R.O. 464 dated 11-2-57, shall inquire into the matters specified in the notification first mentioned above and report to the Central Government.

Ordered that the Order be published in the Gazette of India for public information.

[No. 16(16)-Admn/58.]

D. L. MAZUMDAR, Secy.

(Indian standards institution)

New Delhi, the 17th November 1958

S.O. 2464. — In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed, have been established during the period 1st to 15th November 1958,

THE SCHEDULE

SL No.	No. and title of the Indian Standard established	No. and title of the Indian Standard or Standards, if any, superseded by the new Indian Standard	Brief Particulars
(1)	(2)	(3)	(4)
1	IS : 493-1958 Specification for Machinery and Spindle Oils (<i>Amended</i>)	IS : 493-1954 Specification for Machinery and Spindle Oils	This standard prescribes the requirements and the methods of test for machinery and spindle oils for various types of lubricating services to which these oils are employed. It does not cover oils compounded with fixed oils or soaps. (Price Re. 1.00)
2	IS : 1175-1957 Methods for Grading and Classification of Muscovite Mica Blocks, Thins and Films.	IS : 13-1949 Methods for Grading Processed Mica (<i>Tentative</i>), and IS : 14-1949 Classification of Processed Muscovite Mica (<i>Tentative</i>) (Both cancelled under S. O. 603 dated 26th April 1958).	This Standard describes a standard system of grading and classifying muscovite mica blocks, thins and films according to size, visual qualities, and presence of structural imperfections (Price Re. 1.50)
3	IS : 1180-1958 Specification for Outdoor Type Three-Phase Distribution Transformers Up to and Including 100 kVA 11 kV		This standard covers the requirements and tests for oil-immersed, self-cooled, three-phase, double wound, outdoor type distribution transformers, with Class A insulation of capacities up to and including 100 kVA, for use on systems with nominal voltages up to and including 11 kV and a frequency of 50 cycles per second (Price Rs. 5.00)

4 IS : 1183-1957 Specification for Density Hydrometers for Use in Milk	..	This standard covers the requirements for density hydrometers for use in milk, adjusted to indicate density over a range 1.025 to 1.035 g per ml and 1.015 to 1.025 g per ml when read in a liquid medium having a temperature of 27° C and a surface tension of 50 dynes per centimetre, the reading being taken at the intersection of the level liquid surface and the stem. (Price Rs. 1.50). This standard prescribes constructional details and other particulars of handloom cotton Madras check. (Price Re. 1.00)
5 IS : 1247-1958 Specification for Handloom Cotton Madras Check	..	This standard gives recommendations on the general considerations which should guide the selection of grinding wheels for different applications. (Price Rs. 2.00)
6 IS : 1249-1958 Recommendations for Selection of Grinding Wheels	..	
7 IS : 1254-1958 Specification for Corrugated Aluminium Sheet	..	This standard covers the general and specific requirements, such as profile, dimensions, finish, etc. for corrugated aluminium sheet meant for industrial building and general purposes. (Price Rs. 1.50).

Copies of these Indian Standards are available, for sale, with the Indian Standards Institution, "MANAK BHAVAN", 9 Mathura Road, New Delhi-1 and also at its Branch Offices at (i) 40/40A Cawasji Patel Street, Fort, Bombay-1, (ii) P-11, Mission Row Extension, Calcutta-1 and (iii) 2/21, First Line Beach, Madras-1.

[No. MDC/11(4)]

New Delhi, the 21st November 1958

S.O. 2465.—In pursuance of sub-regulation (1) of regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that five licences, particulars of which are given in the Schedule hereto annexed, have been renewed for a period of one year.

THE SCHEDULE

Sl. No. and Date	Period of Validity		Name and Address of the Licensee	Article/Process covered by the licence	Relevant Indian Standard
	From	To			
1 CM/L-34 16-11-1958 15-11-1959 4-II-1957			The National Insulated Cable Co. of India Ltd., 67 Stephen House, 4 Dalhousie Square, Calcutta-1.	Hard Drawn Copper Solid and Stranded Conductors.	IS: 282-1951 Specification for Hard-Drawn Copper Solid and Standard Circular Conductors for Overhead Power Transmission Purposes (Tentative).
2 CM/L-35 4-II-1957	Do.	Do.	Do.	Bare Annealed Copper Wire	IS: 396-1953 Specification for Bare Annealed High-Conductivity Copper Wire for Electrical Machinery and Apparatus (Tentative).
3 CM/L-36 4-II-1957	Do.	Do.	Do.	Hard Drawn Aluminium and Steel-Cored Aluminium Conductors for Overhead Power Transmission Purposes.	IS: 398-1953 Specification for Hard-Drawn Stranded Aluminium and Steel-Cored Aluminium Conductors for Overhead Power Transmission Purposes (Tentative).
4 CM/L-37 16-11-1958 15-11-1959 4-II-1957			The National Insulated Cable Co. of India Ltd., 67, Stephen House, 4 Dalhousie Square, Calcutta-1.	Rubber-Insulated Cables and Flexible Cords for Electric Power and Lighting (for Working Voltages Upto and Including 11 kV).	IS: 434-1953 Specification for Rubber-Insulated Cables and Flexible Cords for Electric Power and Lighting (for Working Voltages Upto and Including 11 kV) (Tentative).
5 CM/L-38 16-11-1958 15-11-1959 4-II-1957			Do.	Cotton-Covered High-Conductivity Annealed Round Copper Wire.	IS: 450-1953 Specification for Cotton-Covered High Conductivity Annealed Round Copper Wire.

[No. MDC/12(105).]

C. N. MODAWAL,
Deputy Director (Marks).

MINISTRY OF STEEL, MINES & FUEL

(Department of Mines & Fuel)

New Delhi, the 20th November 1958

S.O. 2466.—In exercise of the powers conferred by sub-section (2) of section 4 of the Coal Mines (Conservation and Safety) Act, 1952 (12 of 1952), the Central

Government hereby appoints Shri G. S. Jabbi, Additional Chief Inspector of Mines, as a member of the Coal Board with effect from the 20th November, 1958 vice Shri S. S. Grewal, Chief Inspector of Mines in India, proceeded on leave with from that date.

[No. C5-1(22)/58.]

CHHEDI LAL, Dy. Secy.

MINISTRY OF FOOD & AGRICULTURE

(Dept. of Agriculture)

(Indian Council of Agricultural Research)

New Delhi-2, the 5th November 1958

S.O. 2467.—In pursuance of the appropriate provisions of the Indian Cotton Cess Act, 1923 (14 of 1923), the Central Government are pleased to nominate the following persons to be members of the Indian Central Cotton Committee, Bombay, for a period of three years with effect from 1st April, 1958:—

S. No.	Name and address	Section
1.	Shri K. N. Palaniswamy Gounder, M.L.A., Tiruppur ..	4(viii)
2.	Shri G. K. Devarajulu, Managing Agent, The Lakshmi Mills Ltd., Colmbatore.	4(v)

[No. 1-12/58-Com.II.]

AJUDHIA PRASADA, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 17th November 1958

S.O. 2468.—Dr. K. M. Gandhi, L.D.Sc., Dental Surgeon, Bombay, has been nominated by the Government of Bombay as a member of the Dental Council of India under clause (e) of section 3 of the Dentists Act, 1948 (16 of 1948) with effect from the 17th November, 1958.

[No. F.6-7/58-M.I.]

New Delhi, the 22nd November 1958

S.O. 2469.—Dr. K. M. Singh, Additional Dental Surgeon, Patna Medical College Hospital, Patna, has been re-nominated as a member of the Dental Council of India by the Government of Bihar under clause (e) of section 3 of the Dentists Act, 1948 (16 of 1948) with effect on and from the 27th November, 1958.

[No. F. 6-7/58-M.I.]

KRISHNA BIHARI, Dy. Secy.

MINISTRY OF TRANSPORT AND COMMUNICATIONS

(Department of Transport)

(Transport Wing)

MERCHANT SHIPPING

New Delhi, the 8th November 1958

S.O. 2470.—In pursuance of clause (ii) of sub-rule (2) of rule 1 of the Indian Merchant Shipping (Load Line) Rules, 1934, the Central Government hereby appoints the Norwegian Ships Classification Society 'Det Norske Veritas' to be

an Assigning Authority for the purpose of the said Rules in respect of s.s. Jaggyoti—O. No. 199129, registered in Bombay.

[No. 42-MA(6)/57.]

S. K. VENKATACHALAM, Dy. Secy.

MINISTRY OF REHABILITATION

New Delhi, the 21st November 1958

S.O. 2471.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Madhya Pradesh for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons;

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires, the said evacuee properties.

SCHEDULE

Sl. No.	Particulars of the Evacuee Properties.	Name of the town and locality village in which the property is situated.	Name of Evacuee.
1	2	3	4
1	Plot	Mama Ka Bazar, Lashkar.	Munuru Khan Rahim Khan
2	Khander	Hanuman Nagar, Lashkar.	Abdul Majid
3	Patore	Hanuman Nagar, Lashkar.	Babu son of Abdulah
4	Patore	Hanuman Nagar, Lashkar.	Ramzan Ali Bux
5	Plot	Hanuman Nagar, Lashkar.	Chotta Khan son of Imam Khan
6	House	Hanuman Nagar, Lashkar.	Ismail son of Nazir Humal
7	Khander	Hanuman Nagar, Lashkar.	Imam Bux
8	Plot	Kamigran, Gwalior	Ahmad Sher Khan
9	House	Gendiweli Sarak, Lashkar.	Chune Khan son of Nathe Khan
10	Plot	Bada Kasim Khan, Lashkar.	Mohmmad Sadik Hamal
11	House	Tale Ki Bazar, Lashkar.	Hussain Beg son of Noor Beg
12	Plot	Mama Ka Bazar, Lashkar.	Wali Mohammad son of Nabi Mohammad
13	Plot	Bada Kasim Khan, Lashkar.	Nathe Khan son of Rehman Khan
14	House	Ingle Ke Goth, Lashkar.	Wafati son of Pan.e Khan
15	Plot	Hayder Ganj, Gwalior.	Mohmodi Beg
16	House	Mama Ka Bazar, Lashkar	Farman Ali
17	Plot	Hayder Ganj, Gwalior	Ahmad Nabi, Mohammad Nabi, sons of Haji Ali dad Khan
18	House	Hawali Pichwara, Lashkar.	Wazir Mohammad
19	Khander	Hawali Pichwara, Lashkar.	Shahdat Khan
20	House	Thorat Ki Goth, Lashkar.	Aziz Ahmad son of Hafiz Fazal Rehman
21	Two Houses	Chotta Ki Bazar, Lashkar.	Azizul Rehman son of Hafizul Rehman
22	House	Chotta Ki Bazar, Lashkar.	Ashraf Ali son of Asod Ali
23	Khander	Near Gwalior Talkies, Lashkar.	Illahei Bux
24	House	Kasai Khana, Morar.	Ali Bux son of Nabi Bux
25	House	Bahra Santar, Morar.	Mohmmad Din
26	Plot	Tara Ganj, Lashkar.	Shrimati Nasiban
27	Plot	Tara Ganj, Lashkar.	Rafiulah son of Niyaz Khan
28	House	Hanuman Nagar, Lashkar.	Wali Mohammad Chidu Khan
29	House	Loha Garh, Lashkar.	Lal Khan
30	Khander	Madi Ka Bazar, Lashkar.	Kadar son of Annu
31	Plot	Magaleshwar, Gwalior.	Yasin Khan
32	House	Khatik Mohalla, Morar.	Halka son of Chote

1 2

3

4

33	House	Fozdar Mohalla, Lashkar.	Abdul Satar
34	House	Danoli Lashkar.	Ilahai Shah
35	Plot	Bhawc Ka Bazar, Lashkar.	Chote Khan son of Niyaz Khan
36	Plot	Jiwaji Ganj, Lashkar.	Mehboob Khan
37	Khandar	Kampoo, Munshiyan, Lashkar.	Gafar Satar
38	Khandar	Sindhe Ki Chawani, Lashkar.	Nabi Sher
39	House	Sarak Saria, Gwalior.	Dayam Khan
40	House	Janak Ganj, Lashkar.	Mehboob Beg
41	House	Hanuman Nagar, Lashkar.	Harsu Gafur Bai
42	House	Kasai Khana, Morar.	Basarat son of Bulakhi
43	House	Risalsi Bazar, Morar.	Basarat son of Bulakhi
44	House	Bada Kasim Khan, Lashkar.	Abdul Rashid Khan
45	House	Bala Bei ka Bazar, Lashkar.	Syed Fathe son of Ali Syed
46	House	Hanuman Nagar, Lashkar.	Mohmmad Hussain son of Sadar Khan
47	House	Ramtpura, Gwalior.	Niamat Ali
48	Khandar	Patpura, Gwalior.	Najib Khan
49	House	Naya Sarafa, Lashkar.	Lukman Mohammad Khan
50	House	Dholi Bhawa Ka Pul, Lashkar.	Babu son of Niaz Mohammad
51	House	Kotikar, Morar.	Chand Khan
52	House	Ghass Mandi, Gwalior.	Bashiram wife of Amira
53	House	Jamna Dai Morar	Abdul Razak son of Wali Mohammad
54	House	Rathkhana, Madho Ganj, Lash- ker.	Mubarak Ali
55	House	Fozdar Mohalla, Lashkar.	Mari Begum
56	House	Khirki Mohella, Gwalior.	Mohmodali Beg
57	House	Hem Singh Ki Parade, Lashkar.	Ramzan Khan
58	House	Fozdar Mohalla, Lashkar.	Ahemed Bishti
59	House	Noor Ganj, Gwalior.	Chotey Khan
60	House	Naya Sarafa, Lashkar.	Lukman son of Kaman Ali
61	House	Noor Ganj, Gwalior.	Ibrahim
62	House	Noor Ganj, Gwalior	Roshan
63	House	Rampatpura, Gwalior	Nahar Khan Rahmat Ullah
64	Khandar	Patpura, Gwalior.	Nahar Khan
65	House	Jamna Dai, Morar.	Sheikh Kellar
66	House	Dulpur, Morar.	Wazira
67	House	Naya Sarafa, Lashkar.	Mohmmad Shafi
68	House	Hanuman Nagar, Lashkar.	Mohmmad Hussain Khan
69	House	Tara Ganj, Lashkar.	Issmail
70	House	Dholi Bua ka Pul, Lashkar.	Baboo
71	House	Naya Sarafa, Lashkar.	Ashrajemi Shan
72	House	Mama Ka Bazar, Lashkar.	Musammat Akhtari Begum
73	House	Fojdar Mohalla, Danoli, Lashkar.	Shrimati Gohar Jehan
74	House	Madi Ka Bazar, Gwalior.	Mohmmad Chote

(No. 1(1220)/57/Comp. III/Prop.)

RAJA LAL GUPTA, P.C.S., Under Secy.

(Office of the Chief Settlement Commissioner)

New Delhi, the 21st November 1958

S.O. 1472.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby confers upon Shri Kartar Singh, Assistant Custodian (Rural) Delhi, the powers of Assistant Settlement Officer for the purpose of performing the functions assigned to such Assistant Settlement Officers by or under the said Act.

[No. 8/51/55-Admn.(R).]

S.O. 2473.—In exercise of the powers conferred by Clause (a) of sub-section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act No. 44 of 1954, the Central Government hereby appoints all Officers for the time being holding the posts of Managing Officer grade II under the Regional Settlement Commissioner, Lucknow, Jullunder, Delhi, Patna, Patiala and Indore as Managing Officers for the custody, management and disposal of Compensation pool

[No. 16(8)-Admn. (Prop)/58.]

M. L. PURI, Settlement Commissioner
& Ex-Officio, Under Secy.

(Office of the Chief Settlement Commissioner)

ORDERS

New Delhi, the 20th November 1958

S.O. 2474.—In exercise of the powers conferred upon me by sub-section (1) of Section 8 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) I, L. J. Johnson, I.C.S., Chief Settlement Commissioner, do hereby authorise Shri K. L. Anand, Assistant Settlement Officer, Rohtak, to make payment of compensation to displaced persons, out of the Compensation Pool, by transfer of allottable property or otherwise in accordance with the provisions of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 in addition to the Officers already authorised *vide* this Office Order No. F. 4(6) Comp-II/57, dated 10th October 1957, 19th December, 1957, 27th February, 1958 and Orders of even number dated 22nd July, 1958, 9th August, 1958 and 28th October, 1958, respectively.

[No. F. 4(6) Comp.II/57-Policy-I.]

S.O. 2475.—In exercise of the powers conferred upon me by sub-section (1) of Section 8 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) I, L. J. Johnson, I.C.S., Chief Settlement Commissioner, do hereby authorise the under mentioned Officers in the Bombay Region, to make payment of compensation to displaced persons, out of the Compensation Pool, by transfer of allottable property or otherwise, in accordance with the provisions of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 in addition to the Officer already authorised *vide* this Office Order No. 4(6) Comp. II/57, dated 27th February, 1958.

1. Shri Narain Tejumal, Settlement Officer, Bombay.
2. Shri A. H. Malkani, Settlement Officer, Bombay.
3. Shri Jamaitrai Gobindram, Settlement Officer, Rajkot.
4. Shri R. L. Mansukhani, Assistant Settlement Officer, Bombay.
5. Shri K. C. Idiculla, Assistant Settlement Officer, Bombay.
6. Shri Chamanlal Punj, Assistant Settlement Officer, Bombay.
7. Shri K. S. Bhasin, Assistant Settlement Officer, Bombay.
8. Shri Devindra Nath, Assistant Settlement Officer, Bombay.
9. Shri C. J. Motwani, Assistant Settlement Officer, Bombay.
10. Shri S. A. Kaptan, Assistant Settlement Officer, Bombay.
11. Shri B. M. Telgeri, Assistant Settlement Officer, Bombay.
12. Shri Trilok Singh, Assistant Settlement Officer, Bombay.
13. Shri B. M. Kundani, Assistant Settlement Officer, Bombay.
14. Shri P. H. Jagtiani, Assistant Settlement Officer, Bombay.
15. Shri J. C. Ahluwalia, Assistant Settlement Officer, Rajkot.
16. Shri D. S. Sharda, Assistant Settlement Officer, Rajkot.

[No. F. 4(6) Comp.II/57-Policy-I.]

L. J. JOHNSON, Chief Settlement Commissioner.

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 19th November 1958

S.O. 2476.—In exercise of the powers conferred by sub-section (1) of section 10 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (46 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 1180, dated the 11th June, 1958, namely:—

In the said notification, for the entry “(2) Raviansh Kumar”, the entry “(2) L. P. Sinha” shall be substituted.

[No. PF-I/1(11)/58.]

New Delhi, the 20th November 1958

S.O. 2477/PW/Mines/Rules/Am. 1.—In exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26, read with section 24, of the Payment of Wages Act, 1936 (4 of 1936), the Central Government hereby makes the following amendments to the Payment of Wages (Mines) Rules, 1956, the same having been previously published as required by sub-section (5) of the said section 26, namely:—

In the said rules for sub-rule (2) of rule 6, the following shall be substituted, namely:—

“(2) Every such register shall be maintained in English or in Hindi or either in the language of the district in which the mine is situated or the language understood by a majority of persons employed in the mine.”

[No. Fac. 49(19)/57.]

P. D. GAIHA, Under Secy.

New Delhi, the 19th November 1958

S.O. 2478.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Delhi, in the industrial dispute between the employers in relation to the Punjab National Bank Limited and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DELHI
PRESENT:

Shri E. Krishna Murti,
Central Government Industrial Tribunal.
3rd November, 1958.

I. D. No. 155 OF 1958

BETWEEN

The employers in relation to the Punjab National Bank Limited.

AND

Their workmen.

Mr. Om Prakash Gupta—for the Bank.

Messrs. H. L. Parvana, H. L. Puri, and H. R. Khullar—for workmen.

AWARD

By G.O. No. SO-LRII-10(2)/57, dated the 10th July, 1958, the industrial dispute, between the employers in relation to the Punjab National Bank Limited, and their workmen, has been referred to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947.

2. The term of reference is as follows:—

Whether the bank employees, whose particulars are given below, should be treated as “workmen” or not for the purposes of the award of the All India Industrial Tribunal (Bank Disputes) Bombay constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated the 5th

January, 1952, as modified under section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955), and also to what relief they are entitled?

Serial No.	Name of the employee			Designation	Where employed
1	Shri	Haibans Lal	.	Accountant	Central Office
2	"	K. N. Bhandari	.	"	"
3	"	M. L. Kampur	.	"	"
4	"	G. L. Talwar	.	"	"
5	"	Sukh Dev	.	"	"
6	"	M. R. Suri	.	Supervisor	"
7	"	Harikishan Lal Kapur	.	"	"
8	"	G. P. Gupta	.	"	"
9	"	Sant Ram Chadha	.	Accountant	"
10	"	K. K. Mehra	.	Ch. Accountant	"
11	"	R. B. Saxena	.	"	"
12	"	Baldev Krishan Sharma	.	Accountant	Dist. Manager.
13	"	Chuni Lal Vijh	.	"	Pakistan Office.
14	"	Sewa Ram	.	"	Provident Fund Depit.
15	"	Vijay Singh	.	Supervisor	"
16	"	Ramji Lal	.	"	"
17	"	Chirjit Singh	.	Accountant	Staff Deptt.
18	"	Shanti Nath Prasher	.	"	"
19	"	Asa Nand Dhingra	.	"	"
20	"	Krishan Kumar Chopra	.	Supervisor	"
21	"	Vcd Parkash Puri	.	"	"
22	"	Jagdish Chand Jaity	.	Accountant	"
23	"	Kamal Kishore Kakkar	.	Supervisor	"
24	"	Mohinder Kumar Jain	.	"	"
25	"	Gopi Chand Mahna	.	"	"
26	"	Shiv Naren Gupta	.	"	"
27	"	Rajinder Nath Chopra	.	Accountant	Board & General Deptt.
28	"	Bal Mokand Arya (Supr. on 1-4-54)	.	"	Branch Office Civil
29	"	Chella Ram	.	"	Lines, Delhi.
30	"	Kundan Lal	.	Supervisor	"
31	"	Jai Chand	.	Head (Supervisor cadre)	"
32	"	D. D. Luthra	.	Accountant	Foreign Exchange Deptt.
33	"	T. N. Chopra	.	Supervisor	"
34	"	S. R. S. Gulati	.	"	"
35	"	Ascharj Lal	.	Accountant	D. M. Northern Circle.
36	"	D. C. Kapur	.	"	"
37	"	Ram Lal Sharma	.	"	"
38	"	Roshan Lal Kapoor	.	"	"
39	"	Kesho Lal Agarwal	.	"	Northern Circle.
40	"	Kuldip Raj Chopra	.	"	"
41	"	H. K. Das Sharma	.	Supervisor	"
42	"	R. S. D. Malhotra	.	"	"
43	"	Raj Rup Singh	.	Accountant	Loans Deptt.
44	"	P. N. Malhotra	.	"	"
45	"	Ram Kishan Madan	.	"	"
46	"	Tara Chand	.	"	"
47	"	Satya Paul Khanna	.	Supervisor	"
48	"	M. L. Dhawan	.	Accountant	Inspection Deptt.
49	"	N. N. Uppal	.	"	"
50	"	B. L. Talwar	.	"	"
51	"	M. L. Mehra	.	"	"
52	"	R. S. Tandon	.	"	"
53	"	R. N. Chopra	.	"	"
54	"	M. L. Aggarwal	.	"	"
55	"	K. L. Kapuria	.	"	"
56	"	Y. N. Awasthi	.	"	"
57	"	T. N. Mehrotra	.	"	"
58	"	H. S. Giani	.	"	"

Serial No.	Name of the employee			Designation	Where employed	
59	Shri	Dharam Vir Kehar	.	Accountant	D.M.U.P. Office.	Circle's
60	„	Ghanshyam Swarup	.	„	„	
61	„	Madan Lal Khosla	.	„	„	
62	„	Behri Lal Kanwara	.	„	„	
63	„	Mitter Bilas	.	„	„	
64	„	Ved Parkash	.	„	„	
65	„	Harbans Lal Anand	.	„	„	
66	„	Ram Rup Chaturvedi	.	„	„	
67	„	P. C. Kochhar	.	„	„	
68	„	Amrit Lal Poothi	.	Offg. Acctt.	„	
69	„	P. L. Khosla	.	Accountant	„	
70	„	Ram Lal Ramdas	.	„	Law Department.	
71	„	Mehr Chand	.	„	„	
72	„	Devi Chand Suri	.	Accountant	„	
73	„	Lejya Ram Aggarwal	.	„	„	
74	„	Madan Lal Kapahi	.	„	„	
75	„	Shri Lal Manchanda	.	„	D.M. Central Circle's Office.	
76	„	Krishan Lal Sharma	.	„	„	
77	„	Kashi Nath Vali	.	„	„	
78	„	Vishwa Mitter Mehta	.	„	„	
79	„	Ram Richpal	.	„	„	
80	„	Girish Chander Srivastava	.	„	„	
81	„	Roshan Lal Puri	.	„	Economic Section.	
82	„	V. P. Kheshtopal	.	Supervisor	Property Deptt.	
83	„	J. C. Chopra	.	Accountant	Stationery Deptt.	
84	„	Sohan Lal	.	Supervisor	Branch Office,	
85	„	Amar Nath Gupta	.	„	Chandni Chowk.	
86	„	Hans Raj Puri	.	Accountant	Branch Office,	
87	„	Ved Parkash Wadhwa	.	„	Chandni Chowk.	
88	„	Hem Chand Jain	.	„	„	
89	„	Chandar Shekhar	.	„	„	
90	„	N. B. Bhatnagar	.	Supervisor	„	
91	„	Balu Ram	.	„	„	
92	„	Satcharan Seth	.	„	„	
93	„	Ram Niwas	.	„	„	
94	„	Ganga Ram Seth	.	„	„	
95	„	Ascharjalal Kumar	.	„	„	
96	„	Birbal Chopra	.	„	„	
97	„	Banwari Lal	.	„	„	
98	„	Dharampal Mehta	.	„	„	
99	„	Gurbax Singh	.	Office Supervisor	„	
100	„	Ram Dhan	.	„	„	
101	„	Shamsunder Khanna	.	„	„	
102	„	Sita Ram	.	Supervisor	„	
103	„	Sham Lal	.	Teller	„	
104	„	Ram Narain Kohli	.	Supervisor	Branch Office Chandni Chowk.	
105	„	Badrinath Sharma	.	Cashier Incharge	„	
106	„	Adishwar Prasad	.	„	Sadar Bazar Branch.	
107	„	Ram Labhaya Kapur	.	Accountant	Minto Road Branch.	
108	„	Prem Nath Kapur	.	„	„	
109	„	Om Prakash Chopra	.	Supervisor	„	
110	„	Ravindar Nath Malhotra	.	„	„	
111	„	Goverdhan Dass Luthra	.	„	„	
112	„	Lakshmi Chand Gupta	.	„	„	
113	„	Dulichand Gupta	.	„	„	
114	„	D. R. Madhok	.	Asstt. Manager	Minto	
115	„	K. N. Iyer	.	Accountant	„	
116	„	R. L. Anand	.	Supervisor	„	
117	„	R. P. Garg	.	„	„	
118	„	M. L. Wadhwa	.	„	„	
119	„	D. R. Chabar	.	„	„	

Serial No.	Name of the employee	Designation	Where employed
120	Shri Bhola Nath	Supervisor	Minto Road Branch
121	„ M. L. Bhalla	„	„
122	„ P. S. L. Narayananam	„	„
123	„ Ram Lal Suri	Accountant	Subzimandi Branch, Delhi.
124	„ Pannalal	Supervisor	„
125	„ Durga Dass Puri	„	„
126	„ Kishorilal Puri	„	„
127	„ Balraj Madhus	„	„
128	„ Lekh Raj Suteja	„	„
129	„ Jaswant Rai	„	„
130	„ T. N. Chopra	Accountant	Kashmiri Gate Branch Office.
131	„ Inderjit Gombu	Supervisor	„
132	„ R. M. Mehta	„	„
133	„ B. D. Gupta	„	„
134	„ Jas Raj Chona	„	„
135	„ K. L. Manchanda	„	„
136	„ Gauri Shanker Mehra	Accountant	Regal Bdg. Branch.
137	„ Bharat Prakash	Supervisor	„
138	„ Sada Nand Sapra	Supervisor	„
139	„ Dharambir Banga	„	„
140	„ Indersen Minocha	Accountant	Naya Bazar Office.
141	„ Kishanlal Kharbanda	Supervisor	„
142	„ Som Datt	„	„
143	„ R. K. Bhanot	„	Tropical Building.
144	„ Mangal Das	„	„
145	„ K. S. Puri	„	„
146	„ G. L. Sachdev	Custodian Safe Deposit Vault.	„
147	„ J. R. Chopra	Accountant	Ajmere Gate Extn. Branch.
148	„ Dev Raj Vig	„	„
149	„ Jai Kishan Garg	Supervisor	„
150	„ Ram Gopal Malhotra	„	„
151	„ B. K. Marwaha	Supervisor	Fountain Branch.
152	„ Maya Ram Aggarwal	„	„
153	„ H. S. Sehgal	„	„
154	„ Shamsunder Talwar	„	„
155	„ Indersain Mincho	Accountant	Jangpura Branch.
156	„ Som Nath Ahuja	Supervisor	„
157	„ M. Mohanlal Chopra	Accountant	Lodi Road Office.
158	Mrs. Shobha Rain	Supervisor	„
159	Shri K. L. Agarwal	Accountant	Gurdwara Road Office
160	„ Hari Singh	„	„
161	„ P. K. Gupta	Supervisor	„
162	„ S. P. Jain	„	„
163	„ S. L. Sarna	„	„
164	Mr. Raja Ram Khanna	Asst. Manager	Daryaganj Office.
165	„ H. D. Srivastava	Accountant	„
166	„ R. K. Malik	Supervisor	„
167	„ Ram Titrath	„	„
168	„ Sada Nand	Asst. Manager	Queensway Branch Office.
169	„ Mohanlal Huria	Accountant	„ „
170	„ Hari Chand Sharma	Supervisor	„ „
171	Mr. Harbans Lal Malik	Accountant	Khari Baoli Branch Office.
172	„ S. N. Shivpuri	Supervisor	„ „
173	„ V. D. Vilj	„	„
174	„ Harkishanlal Bhatia	„	„
175	„ Amar Nath Mehta	„	„
176	„ Shantilal Malik	„	„
177	„ T. N. Vohra	Accountant	Chowri Bazar Branch
178	„ Suraj Narain	Supervisor	„

Serial No.	Name of the employee	Designation	Where employed
179	Mr. Yudhvirshtar Lal .	Supervisor . .	Chawri Bazar Branch
180	” Day Nand . . .	” . .	”
181	” K. S. Bharati . . .	” . .	”
182	” Joti Prashad . . .	Accountant . .	”
183	” Banarsi Das Gupta . . .	” . .	”
184	” B. C. Bansal . . .	” . .	Paharganj Branch.
185	” L. R. Vali . . .	Supervisor . .	”
186	” A. D. Sabharwal . . .	Accountant . .	Bank Street Karol-bagh, Branch.
187	” R. C. Aurora . . .	Supervisor . .	”
188	” Rajinder Ajmni . . .	” . .	Clock Tower Delhi.
189	” Deshpal Chopra . . .	” . .	”
190	” J. D. Jain . . .	” . .	”
191	” K. C. Garg . . .	” . .	”
192	” S. D. Sachdeva . . .	Accountant . .	”
193	” B. N. Gulati . . .	” . .	Patelnagar Office.
194	Shri Sat Pal Verma . . .	Supervisor . .	Khan Market, Karol-bagh, Branch.

3. The case of the workmen is that the 194 employees of the Bank, whose names are given in the Schedule to the reference are all workmen, who are entitled to the benefits under the Bank Award, that the employees, designated as Supervisors, Accountants, Assistant-Managers, and Departmental Incharges are called upon to discharge duties of higher clerical nature, that they do routine work, making calculations, comparing and checking the work done by the junior clerks, that they have been mostly drawn from the lower clerical ranks, that these several categories have been carrying on clerical duties, that despite the requests and representation of the employees concerned through their Union, the management did not implement the provisions of the Bank Award in the case of Supervisors and Accountants, that the management intended to evade implementation of the Award in respect of these categories by introducing better grades and better scales of pay, that a number of Supervisors and Accountants were forced to declare in favour of the scales of pay, and the other conditions offered by the Bank, that all the employees in question should be held to be "workmen", and all the benefits under the Award should be allowed to them.

4. The contention on behalf of the Bank is, that it is not a fact, that the clerical staff includes Supervisors and Accountants, and that they perform duties of a higher clerical nature, that clerical work is done by the clerks working under the Supervisors and Accountants, and the Supervisors and Accountants supervise the work of those, who are placed under them, that the test of directional and controlling power had been regarded as of doubtful validity, that the Bank had not violated any provisions of the Bank Award, that the circular dated 18th April, 1957 is self explanatory, that it is not true, that the management have tried to evade the implementation of the Award, that there is no bar to the introduction of categories of officers, and separate pay-scales and service conditions for the same, that it is not true, that any of the employees in the terms of reference was put to any pressure or coercion, that a number of employees, whose names are mentioned in the list, marked Annexure C, have withdrawn their case, that no dispute arises in their case, that the Bank is prepared to cover such of those employees as wish to be covered by the Bank Award, that it is not open to such of the workmen, as opt for the Bank scales of pay and conditions of service for officers, to claim to be governed by the terms of the Bank Award, and that there are no merits in the claim of the workmen.

5. The following issues were framed:—

- (1) Whether the Bank employees, mentioned in the order of reference, are "workmen" within the meaning of the Industrial Disputes Act?
- (2) Whether the said employees are entitled to relief, and Service Conditions as per the Bank Award?
- (3) Whether there is no industrial dispute at all in respect of certain employees of the Bank, as contended by the management?

(4) Whether the management is entitled to ask the employees to choose and exercise their option in regard to the conditions of service, as in the Bank Award, or according to the conditions of service of the Bank?

(5) To what relief are the employees in question under the reference entitled?

Issues No. 1 to 3—

6. This is a dispute, between the employers in relation to the Punjab National Bank Limited, and their workmen in respect of the matter specified in the Schedule. There are the names of 194 employees contained in the order of reference.

7. Originally a statement of claim was filed by the All India Punjab National Bank Employees Federation on behalf of the workmen. Subsequently, the Association of the Punjab National Bank Employees filed a petition to be impleaded as a party to the reference on the ground, that the said Association also represented some of the employees. The said Association was impleaded as a party to these proceedings by order dated 11th September 1958, and a claim statement was also filed by the said Association.

8. Both the Association and the Federation have put-forward identical contentions in this matter.

9. The point, that arises for determination in this proceeding, is, whether the employees, whose particulars are given in the order of reference, should be treated as "workmen" for the purpose of the Award of the All India Industrial Tribunal (Bank Disputes), and also to what relief they are entitled.

10. According to the case of the Union, all the employees, whose names are mentioned in the order of reference, are "workmen". It will be noted, that some of them are designated as Accountants, Supervisors, Assistant Managers, etc. The case of the workmen is, that, in spite of their being known by this designation, they are "workmen" within the meaning of the Industrial Disputes Act, and that they are entitled to take advantage of the provisions of the Sastry Award, in relation to Bank Disputes. It is asserted on behalf of the workmen, that these various employees designated as Supervisors, Accountants, Assistant Managers, Departmental Incharges, etc, are called upon to discharge duties of a higher clerical nature, that they do routine work, making calculation, comparing and checking the work done by the junior clerks, that these employees are drawn mostly from the lower clerical ranks on the basis of merit, and that, in these circumstances, they are all "workmen" within the meaning of the Industrial Disputes Act, and entitled to take advantage of the provisions of the Bank Award. It is the case of the workmen, that the Bank is trying to evade the implementation of the Award so far as these workmen are concerned. Ext. W/3 has been produced as a copy of the representation made to the management dated 28th April, 1956 on behalf of a number of Accountants, Supervisors, and other employees of the Bank in this connection.

11. The contention of the Bank, is, that it is not a fact, that clerical staff includes Supervisors and Accountants, or that they perform duties of a higher clerical nature. It is urged before me, that the Bank Award merely lays down, that, when any particular employee is doing clerical work, and can be classed as a clerk, such employee must be given pay and allowances as fixed under the Award. It is denied, that the management ever tried to evade implementation of the Sastry Award in the matter of its application to any category, governed by it.

12. At the time this matter came on for trial, both parties dispensed with oral evidence, and contented themselves by filing documents only.

13. On behalf of the workmen, the memoranda, Exts. W/1 and 2, were filed in this connection.

14. During the pendency of this dispute, a number of letters were received by this Tribunal from various employees of the Bank, intimating, that they had no dispute with the Bank, and that the matter may be dropped so far as these individuals were concerned. The Bank has filed a memorandum, Ext. M/3. It is alleged therein, that ninety (90) persons have withdrawn their case, and no dispute subsists in regard to them. The names of these 90 persons are contained in Annexure C, which is annexed to this Award. It is further mentioned by the Bank in the said memorandum, Ext. M/3, that, if any one of these persons, with the exception of the 10 persons, whose names are found below, were to

come-forward before this Tribunal and repudiate the withdrawal, the Bank would have no objection to the implementation of the Award in their case:—

- "11. R. B. Saxena.
- 22. J. C. Jaitly.
- 29. Chela Ram.
- 35. Ascharaj Lal.
- 67. P. C. Kochhar.
- 78. Vishwa Mitter Mehta.
- 114. D. R. Madhok.
- 146. G. L. Sachdeva.
- 164. Rala Ram Khanna.
- 183. Banarsi Dass Gupta."

In proof of the fact, that the 90 persons, whose names are found in Annexure C, have withdrawn from this reference, the letters written by them have been marked. Those contained in the file, Ext. M/2, which number 80, were received by post by this Tribunal direct. The remaining 10 sent the letters contained in the file, Ext. M/1, direct to the Bank. We have thus 90 letters from the several individuals mentioned in the Annexure C. Each employee has intimated in the said letters, that, as he had no dispute with the Bank in respect of this proceeding, he requested, that the Tribunal may drop the matters in his case. None of these persons, who sent the letters contained in Exts. M/1 and 2, came-forward to repudiate these letters, and state, that they are pressing the claim. Even though there is an allegation in the statement of claim filed by the Federation, that the Bank induced these employees to give such letters, as a result of pressure and coercion, there is nothing on record to prove, that these letters were given by the respective employees otherwise than of their own free will and accord. I find, that, so far as the 80 employees, whose names are found in Annexure C attached to this award are concerned, there is no dispute between them and the Bank, and that no question arises for determination in this proceeding so far as these individuals are concerned, and that the matter is dropped as per their request.

15. The next contention on behalf of the Bank is, that 55 persons, whose names are found in Annexure B, desired implementation of the Award, and that the Bank had already agreed to the same. Thus the Bank has admitted, that these 55 persons, whose names are found in Annexure B, are "workmen", and that they are entitled to the benefits of the Award. I find, that the 55 employees, whose names are found in Annexure B, are "workmen", that they are entitled to the benefits of the Award, and that the Bank has been willing to implement the Award in their case. If in respect of any one of these the Bank Award has not been implemented, that is a matter to be separately taken up by them in independent and appropriate proceedings.

16. The next question is with reference to the rest of the workmen.

17. In the written statement of the Bank it is alleged in paragraph 25, that Shri Sada Nand, No. 168, in the list, is Assistant Manager, and is performing duties of a managerial nature, thereby implying, that he was not a workman. But in Ext. M/3 paragraph 3 it is stated, that Shri Sada Nand (No. 168) desires implementation of the Award, and that the Bank agreed to the same. I find, that Shri Sada Nand is a "workman", and that he is entitled to relief as per the provisions of the Bank Award.

18. Nextly, it is alleged in paragraph 25 of the written statement on behalf of the Bank, that Shri K. K. Mehra, No. 10, was a Chartered Accountant, that he is not a "workman" according to the Industrial Disputes Act, that he resigned his job in the Bank, and is no more in the Bank's service. There is no evidence on his behalf, and there is nothing to prove, that he is a "workman". I find, that there is no satisfactory proof, that Shri K. K. Mehra is a "workman", or that he is entitled to the benefits of the Bank Award, or to implementation of the said Award against the Punjab National Bank Limited during the time he was in service under the said Bank.

19. Nextly, it is alleged, that employee No. 102, Shri Sita Ram is a clerk, and is covered under the Bank Award. There is no dispute about him, and he is a "workman", and is entitled to relief and all benefits arising under the Bank Award.

20. It has next been pointed out, that employee No. 140, Shri Indersen Minocha, is the same as No. 155. We find the name of this employee, No. 140, in the list, Annexure C. He has withdrawn from the dispute, and no question arises so far as he is concerned in the same way as the others, whose names are found in Annexure C.

21. So far as the rest of the employees found in the list attached to the order of reference, with the exception of those above referred to, are concerned, it is stated in Ext. M/3, that regarding the rest of the employees, the Bank is prepared to implement the Award, if they so choose. Among these employees, Nos. 32 and 41, namely Messrs. D. D. Luthra, Accountant and H. K. Das Sharma, Supervisor, are stated to have resigned their jobs, and are no more in the service of the Bank. Employee No. 160, Shri Hari Singh, Accountant, is said to have retired. So far as these various employees, including S. Nos. 32, 41 and 160 in the order of reference, are concerned, the Bank is willing to implement the Award, if they wish implementation of the same. I find, that all the other employees, referred to above, are "workmen", and the Bank shall treat them as "workmen", and implement the provisions of the Award in their case. I find accordingly on the above issues.

Issue No. 4—

22. In view of my findings, as above, that most of the employees are workmen, that they have been recognised as such by the Bank, and that the Bank is willing to implement the Award in their case, with the exception of those, whose names are found in Annexure C, who do not want any adjudication in this proceeding, but want the matter to be dropped, this issue, raising the question, whether the management is entitled to ask the employees to exercise their option in regard to their being governed by the terms of the Bank Award, does not arise. In paragraph 33 of the claim statement of the All India Punjab National Bank Employees' Federation it is stated as follows:—

"It is further prayed, that the employees, who have been given better scales of pay of Bank's own volition, should not be deprived of such better grades, and others, who have not been allowed such scales of pay, should be allowed."

Exception has been taken on behalf of the management to this prayer of the Union. It is argued, that it is not open to the workmen, covered under the Award, to opt for Bank's scales of pay for officers, and at the same time be governed by the terms and conditions of service as prescribed under the Award. The order of reference deals with the question, whether the various employees, whose particulars have been given, should be treated as "workmen" for the purpose of the Bank Award. The questions, raised by the workmen in paragraph 33 of the statement of claim, are outside the terms of reference, and they are not ancillary or incidental thereto. I find, that the claim, put-forward on behalf of the workmen in paragraph 33, as stated above, is outside the scope of the reference, and cannot be entertained in this proceeding.

Issue No. 5—

23. In the result, an award is passed as follows:—

- (i) There is no industrial dispute between the employees, whose names are mentioned in Annexure C attached to this award, and the management of the Bank, and no directions can be given so far as they are concerned, and these workmen are not entitled to any relief in this proceeding.
- (ii) Employee No. 110, Shri K. K. Mehra, is not a "workman", and he is not entitled to any relief in this reference.
- (iii) All the 55 employees, mentioned in Annexure B, attached to this award, and also Shri Sada Nand, No. 168, and Shri Sita Ram, No. 102, are all "workmen", and the Bank shall implement the provisions of the Bank Award in their case, if such implementation has not already been effected.
- (iv) With reference to all the other employees, excluding those mentioned in paragraphs (i) to (iii), the Bank shall treat them as workmen, and implement the provisions of the Award.
- (v) No order as to costs.

E. KRISHNA MURTI,
Central Government Industrial Tribunal, Delhi.

ANNEXURE B

S. No. in the reference	Name	Designation	Office
1 14	Shri Sewa Ram . . .	Accountant . . .	P./Fund Department.
2 15	„ Vijay Singh . . .	Supervisor . . .	Do.
3 16	„ Ramji Lal . . .	Do. . .	Do.
4 20	„ K. K. Chopra . . .	Accountant . . .	Staff Deptt.
5 21	„ Ved Parkash Puri . . .	Supervisor . . .	Do.
6 24	„ M. K. Jain . . .	Do. . .	Do.
7 26	„ Shiv Narain Gupta . . .	Do. . .	Do.
8 28	„ Bal Mukund Arya . . .	Accountant . . .	Board & Genl. Deptt.
9 30	„ Kundan Lal . . .	Supervisor . . .	B. O. Civil Lines, Delhi.
10 31	„ Jai Chand . . .	Head Cashier . . .	Do.
11 36	„ D. C. Kapur . . .	Accountant . . .	Loans 'B' Deptt.
12 38	„ Roshan Lal Kapur . . .	Do. . .	Do.
13 64	„ Ved Parkash . . .	Do. . .	Dist. Manager, Delhi Circle.
14 84	„ Sohan Lal . . .	Supervisor . . .	Stationery Deptt.
15 85	„ Amarnath Gupta . . .	Do. . .	Do.
16 86	„ Hans Raj Puri . . .	Accountant . . .	Minto Road, N. Delhi.
17 91	„ Babu Ram . . .	Supervisor . . .	Ch. Chowk, Delhi. (since retired)
18 92	„ Satcharan Seth . . .	Supervisor . . .	Ch. Chowk, Delhi.
19 94	„ Ganga Ram Seth . . .	Do. . .	Do.
20 95	„ Ascharaj Lal Kumar . . .	Do. . .	Do.
21 96	„ Birbal Chopra . . .	Do. . .	Do.
22 99	„ Gurbux Singh . . .	Do. . .	Do.
23 105	„ B. N. Sharma . . .	Do. . .	Do.
24 106	„ Adishwar Parshad . . .	Head Cashier . . .	Do.
25 107	„ Ram Labhaya Kapur . . .	Accountant . . .	Sadar Bazar, Delhi.
26 109	„ Sash Chopra . . .	Supervisor . . .	Do.
27 116	„ R. L. Anand . . .	Do. . .	Minto Rd., New Delhi.
28 117	„ R. P. Garg . . .	Do. . .	Do.
29 118	„ M. L. Wadhwa . . .	Do. . .	Do.
30 119	„ D. R. Chhabra . . .	Do. . .	Do.
31 124	„ Panna Lal . . .	Do. . .	Subzimandi, Delhi.
32 125	„ Durga Das Puri . . .	Do. . .	Do.
33 126	„ K. L. Puri . . .	Do. . .	Do.
34 128	„ Nebh Raj Satija . . .	Do. . .	Do.
35 129	„ Jaswant Rai . . .	Do. . .	Do.
36 133	„ B. D. Gupta . . .	Do. . .	Kashmere Gate, Delhi
37 141	„ K. L. Kharbanda . . .	Do. . .	Naya Bazar, Delhi.
38 142	„ Som Datt . . .	Do. . .	Do.
39 143	„ R. K. Bhanot . . .	Do. . .	Tropical Bldg., New Delhi.
40 151	„ B. K. Marwah . . .	Do. . .	Fountain, Delhi.
41 156	„ Som Nath Ahuja . . .	Do. . .	Jangpura, New Delhi.
42 157	„ M. M. Lal Chopra . . .	Accountant . . .	Lodhi Road, N. Delhi.
43 170	„ Hari Chand Sharma . . .	Supervisor . . .	Janpath, New Delhi.
44 172	„ S. N. Sivpuri . . .	Accountant . . .	Inspection Deptt.
45 176	„ Shanti Lal Malik . . .	Supervisor . . .	Khari Baoli, Delhi.
46 178	„ Suraj Narain . . .	Do. . .	Civil Lines, Delhi.
47 194	„ Sat Pal Verma . . .	Do. . .	KhanMarket, N. Delhi
48 9	„ Sant Ram Chaddha . . .	Accountant . . .	Tropical Building, New Delhi.
49 46	„ Tara Chand . . .	Do. . .	Loans 'B'.
50 93	„ Ram Niwas . . .	Supervisor . . .	Ch. Chowk, Delhi.
51 138	„ Sada Nand Sapra . . .	Do. . .	Regal Bldg. N. Delhi
52 150	„ Ram Gopal Malhotra . . .	Do. . .	Ajmeri Gate Extn New Delhi.
53 179	„ Yudhister Lal . . .	Do. . .	Chawri Bazar, Delhi
54 181	„ K. S. Bharati . . .	Do. . .	Do.
55 185	„ L. R. Vahi . . .	Offg. Acctt. . .	Regal Bldg., New Delhi.

ANNEXURE 'C'

S. No.	No. in the reference	Name	Designation	Office
1	1	Shri Harbans Lal	Accountant	Central Office
2	2	Shri K. N. Bhandari	Do.	Do.
3	3	Shri M. L. Kapur	Do.	Do.
4	4	Shri G. L. Talwar	Do.	Do.
5	5	Shri Sukh Dev	Do.	Do.
6	6	Shri M. R. Suri	Supervisor	Do.
7	7	Shri H. K. L. Kapur	Do.	Do.
8	11	Shri R. B. Saxena	Chartered Acctt.	Do.
9	17	Shri Chirjit Singh	Acctt.	Staff Deptt.
10	18	Shri S. N. Prashar	Do.	Do.
11	19	Shri A. N. Dhingra	Do.	Do.
12	22	Shri J. C. Jaitly	Asstt. Manager	Do.
13	23	Shri K. K. Kakkar	Acctt.	Do.
14	25	Shri Gopi Chand Mahna	Do.	Loans 'A' Deptt.
15	27	Shri Rajinder Nath Chopra	Do.	Board & Genl. Deptt.
16	29	Shri Chela Ram	Officer I/c	Delhi Shahdara.
17	33	Shri T. N. Chopra	Supvr.	Foreign Exchange Deptt.
18	34	Shri S.R.S. Gulati	Do.	Do.
19	35	Shri Ascharai Lal	Asstt. Manager	D. M.'s Office, Chandigarh.
20	39	Shri K. L. Aggarwal	Acctt.	D. M.'s Office, Jullundur City.
21	42	Shri R. S. D. Malhotra	Do.	Staff Department.
22	45	Shri Ram Kishan Madan	Do.	Loans 'A' Deptt.
23	48	Shri M. L. Dhawan	Do.	Inspection Deptt.
24	51	Shri M. L. Mehra	Do.	Do.
25	57	Shri D. N. Mehrotra	Do.	Property Deptt.
26	58	Shri H. S. Giani	Do.	Inspection Deptt.
27	59	Shri Dharam Vir Kehar	Do.	Do.
28	60	Shri Ghanshyam Sarup	Do.	D. M. Delhi Circle.
29	61	Shri Madan Lal Khosla	Do.	Do.
30	62	Shri Behari Lal Kanwara	Do.	Do.
31	63	Shri Mitter Bilas	Do.	Inspection Deptt.
32	65	Shri H. L. Anand	Accountant	D. M. Delhi Circle.
33	67	Shri P. C. Kochhar	Asstt. Manager	Do.
34	69	Shri P. L. Khosla	Accountant	Dehra Dun, Paltan Bz.
35	70	Shri Ram Lal Ram Das	Do.	Law Department
36	71	Shri Mehr Chand	Do.	Do.
37	72	Shri Devi Chand Sahni	Do.	Do.
38	73	Shri Lajya Ram Agarwal	Do.	Do.
39	74	Shri Madan Lal Kapahi	Do.	Do.
40	76	Shri K. L. Sharma	Do.	D. M. Delhi Circle.
41	78	Shri V. M. Mehta	Asstt. Manager	Foreign Exchange Deptt.
42	81	Shri R. L. Puri	Accountant	D. M. Delhi Circle.
43	82	Shri V. M. Kheshtrpal	Supervisor	Economic Deptt.
44	88	Shri Hem Chand Jain	Acctt.	Ch. Chowk, Delhi.
45	97	Shri Banwari Lal	Supvr.	Do.
46	98	Shri Dharam Pal Mehra	Do.	Do.
47	101	Shri Sham Sunder Khanna	Do.	Do.
48	103	Shri Sham Lal Agarwal	Do.	Do.
49	104	Shri Ram Narain Kohli	Do.	Patel Nagar, New Delhi.
50	108	Shri Prem Nath Kapur	Acctt.	Tropical Bldg., New Delhi.
51	110	Shri R. N. Malhotra	Supvr.	Sadar Bazar, Delhi.
52	111	Shri G. D. Luthra	Do.	Do.

S. No. in the No. reference	Name	Designation	Office
53 112	Shri L. C. Gupta	Supvr.	Khari Baoli, Delhi.
54 113	Shri Duli Chand Gupta	Do.	Sadar Bazar, Delhi.
55 114	Shri D. R. Madhok	Asstt. Manager	Minto Road, New Delhi.
56 115	Shri K. N. Iyer	Supvr.	Do.
57 120	Shri Bhola Nath	Do.	Lodhi Road, New Delhi.
58 121	Shri M. L. Bhalla	Do.	Parliament St., New Delhi.
59 122	Shri P. S. L. Narayanan	Do.	Minto Road, New Delhi.
60 123	Shri Ram Lal Soni	Acctt.	Subzi Mandi, Delhi.
61 127	Shri Balraj Madhok	Do.	Ajmeri Gate, New Delhi.
62 131	Shri Inderjit Gombar	Supervisor	Ch. Chowk, Delhi.
63 134	Shri Jas Raj Chona	Do.	Tropical Bldg., New Delhi
64 136	Shri G. S. Mehra	Officer I/c	Vinay Nagar, New Delhi.
65 137	Shri Bharat Prakash	Supervisor	Foreign Exchange, Deptt.
66 140	Shri Inder Sain Minocha	Accountant	Nava Bazar, Delhi.
67 144	Shri Mangal Dass	Supervisor	Staff Department.
68 145	Shri K. S. Puri	Do.	Tropical Building, New Delhi.
69 146	Shri G. L. Sachdeva	Manager	Lodhi Road, New Delhi.
70 148	Shri Dev Raj Vig	Acctt.	Ajmeri Gate, New Delhi.
71 149	Shri J. K. Garg	Supvr.	Do.
72 158	Mrs. Shobha Raina	Do.	Lodhi Road, New Delhi.
73 162	Shri S. P. Jain	Do.	Gurdwara Road, Karol Bagh, New Delhi.
74 169	Shri Mohan Lal Huria	Acctt.	Janpath, New Delhi.
75 173	Shri V. D. Vij	Supvr.	Khari Baoli, Delhi.
76 174	Shri H. K. L. Bhatia	Do.	Minto Road, New Delhi.
77 182	Shri Joti Prasad	Acctt.	Chawri Bazar Delhi.
78 183	Shri B. D. Gupta	Asstt. Manager	Do.
79 184	Shri B. C. Bansal	Acctt.	Paharganj, New Delhi.
80 186	Shri A. D. Sabherwal	Do.	Bank Street, Karol Bagh, Delhi.
81 187	Shri R. C. Aurora	Supvr.	Do.
82 193	Shri B. N. Gulati	Acctt.	Patel Nagar, New Delhi.
83 54	Shri M. L. Aggarwal	Do.	Inspection Deptt.
84 188	Shri Rajinder Ajmani	Supvr.	Staff Department.
85 164	Shri Raja Ram Khanna	Asstt. Manager	Daryaganj, Delhi.
86 77	Shri Kashi Nath Vahi	Acctt.	Loans 'B'
87 90	Shri N. B. Bhatnagar	Supvr.	Daryaganj, Delhi.
88 166	Shri R. K. Malik	Do.	Inspection Deptt.
89 165	Shri H. D. Srivastava	Acctt.	Daryaganj, Delhi.
90 8	Shri G. P. Gupta	Supvr.	Central Office.

[No. LR/II 10(2)/57.]

New Delhi, the 20th November 1958

S.O. 2479.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Loyabad Colliery Workshop of M/s Bird & Co. (Private) Ltd., Post Office Bansjora and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.

REFERENCE NO. 43 OF 1958.

PARTIES:

Employers in relation to Loyabad Colliery workshop of Messrs. Bird & Co. (Private) Limited.

and

Their workmen.

Dated the 8th November 1958.

Present:

Shri Salim M. Merchant (B.A.L.L.B.), Chairman:

Appearances:

Shri S. S. Mukherjea, B.Sc., B.L.,

Advocate, with Shri P. K. Mitter, Chief Personnel Officer,

and Shri J. L. Sinha, Group Personnel Officer—for the employers.

Shri Lalit Burman,

General Secretary, Loyabad Labour Union—for the workmen.

State: Bihar.

Industry: Coal.

AWARD

The Government of India, Ministry of Labour, and Employment, by Order No. L.R.II/2(84)/58 dated 11th July 1958 made in exercise of the powers conferred by sub-clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act 1947 (XIV of 1947), was pleased to refer to me for adjudication the industrial dispute between the parties above named in respect of the following matters specified in the schedule annexed to the said order:—

"Whether the dismissal of Shri J. N. Prasad, Assistant Store Keeper, Loyabad colliery workshop of M/s. Bird & Co. (P) Ltd. P.O. Bansjora (Dhanbad) was justified, and if not, what relief he is entitled to."

2. After the usual notices were issued Shri Lalit Burman, General Secretary, Loyabad Labour Union, filed the statement of claim on behalf of the workmen on 18th August 1958 and the employers filed their written statement in reply on 10th September 1958, after which the matter was fixed for hearing on 3rd October 1958 and after being part heard was adjourned for parties to negotiate for a settlement and as no settlement was reached, the hearing was concluded on 17th October 1958.

3. The facts of the case briefly stated are that Shri J. N. Prasad, the workman concerned in this dispute, was at the relevant time employed as an Assistant Store Keeper of the Loyabad Colliery Workshop. He had been in the services of this company since April 1951 and had worked in different collieries under it. According to the union after joining the workshop, Prasad started taking an active part in organising another union of the workmen namely the Loyabad Colliery Workshop Workers' Union and in about August 1957 he was elected its Vice President. According to Shri Prasad the management did not take these activities of his in good spirits as the new union under his leadership took up the grievances of the workmen particularly with regard to their proper gradation and categorisation under the decision of the Labour Appellate Tribunal of India. This displeased the management which sought an opportunity to get rid of him. The management has denied this allegation of victimisation and has stated that this union was not recognised by it as it was an un-registered union.

4. Now, the facts leading to the dismissal of Prasad from service on 3rd January 1958 are that on 18th November 1957 Prasad attended to his duties as usual but as he was not feeling well, with the permission of the Manager of the workshop, he got himself examined by the company's doctor at the colliery's hospital, when it was found that he was suffering from Adenitis in the left groin, for which he was prescribed certain treatment. The medical attendance ticket issued to him by the company's hospital has been filed in these proceedings (Exhibit W-A). According to Prasad he was ill from 19th November 1957 to 25th November 1957, and could not therefore attend to his duties until he resumed work on 26th

November 1957. It is also admitted that on 23rd, 24th and 25th November 1957 he was treated at the Bhuli dispensary and the certificate produced from that dispensary (Exhibit E-7) shows that he was suffering from fever and dermatitis.

5. According to the management, Prasad had remained absent without any prior authorised leave from 19th November 1957 during which period it was reported to the management that he was found at West Bokaro colliery where a strike was going on. Therefore on 21st November 1957 the management addressed a letter to Prasad (Exhibit E-6) asking his explanation for his un-authorised absence from 19th November 1957, to which he replied on the same day stating that he had been ill since 18th November 1956 (Exhibit E-5). Thereafter he resumed work on 26th November 1957 when a charge sheet, No. 3 dated 26th November 1957, was issued to him charging him under para 12 of the Standing Orders with unauthorised absence from 19th November 1957 to 22nd November 1957. He replied to this charge sheet denying the charge and stated that he had, with the permission of the Manager, got himself examined at the company's hospital on 18th November 1957 after which he had taken ill and was unable to walk about. He stated that the question of unauthorised absence did not arise as he was sick and had obtained medical attendance ticket from Loyabad Hospital on 18th November 1957 and had also been treated at the Bhuli Dispensary on the 23rd, 24th and 25th November. The management was not satisfied with this explanation and fixed an enquiry on the charge sheet on 14th December 1957 which was adjourned sine die. The enquiry was, thereafter held on 28th December 1957 at which the manager of the Loyabad Workshop made a factual statement about Prasad's absence from 19th November 1957 to 22nd November 1957 and of the charge sheet which had been issued to him. To establish the company's case that Prasad was really not ill and had gone to the West Bokaro colliery during the period of his unauthorised leave, the management examined two workmen of the West Bokaro colliery namely R. K. Prasad (P.W. 2) and Rahman Khan (P.W. 3) and it is on the evidence of these two witnesses that the enquiring officer of the management held that it was proved that Prasad had visited the West Bokaro colliery during that period and I shall therefore deal with the evidence of these two witnesses in detail a little later. To continue, at the enquiry the statement of Ramchandra Tewari, Office Chaprasi, Loyabad Workshop, who has been shown as D.W. 1, was also recorded. Prasad also made a statement and was searchingly cross-examined on that statement evidently by the Enquiry Officer. After the enquiry, the manager by his letter dated 3rd January 1958 (Annexure 'D' to the company's written statement) informed Prasad that, "his explanation that he was too sick to obtain medicine or to obtain leave was found false at the enquiry as it was proved that he visited the West Bokaro colliery during this period." He was, therefore, dismissed from service with immediate effect. Against this order Prasad appealed to the Chief Mining Engineer who by his order dated 20th January 1958 turned down the same. The union thereafter raised an industrial dispute with regard to the dismissal of Prasad, which was taken up in conciliation but as the conciliation proceedings ended in failure, the dispute has been referred to adjudication.

6. Before dealing with the contentions raised by the parties it is necessary in state that the company in its written statement had raised a legal contention that this dispute does not come under the purview of the definition of 'industrial dispute' under Section 2(k) of the Industrial Disputes Act 1947, as it was an individual dispute. But this contention was not pressed at the hearing by Shri Mukherjea the learned Advocate for the Company as clearly the case of this workman has been taken up by the Loyabad Labour Union and as the Government order of reference describes this as a dispute between the employers in relation to the Loyabad colliery Workshop of Messrs. Bird & Co., (P) Ltd., and their workmen. I need not, therefore, deal with this contention.

7. The main ground on which this order of dismissal is challenged on behalf of Prasad is that the evidence at the enquiry did not establish the management's conclusion that he had been found at the West Bokaro colliery during the period of his leave and that the order of dismissal which was based on that finding was not justified.

8. I have carefully gone through the evidence recorded at the enquiry and I am of the opinion that the finding of the management that it was proved at the enquiry that he had visited the West Bokaro colliery during the period of his leave was perverse.

9. Witness R. K. Prasad (P.W. 2) in his statement in examination in Chief at the enquiry stated that on the 18th or/10th November (under lining mine) he had seen Prasad at West Bokaro colliery. He stated that he had seen him with one

Bindeshwari Singh an I.N.T.U.C. leader in the house of Guru Das Ram and that he appeared unwell. In cross-examination by Prasad he stated that he had seen Prasad at about 8 p.m. on 18th November 1957 and again on 19th November 1957 at about 7 a.m. It will thus be seen that whilst in examination in Chief this witness had stated that he had seen Prasad either on 18th or 19th November, in his cross-examination he stated that he had seen him at 8 p.m. on 18th November 1957 and again on 19th November 1957 at about 7 a.m. Now, it is admitted that the West Bokaro colliery is about 100 miles from Loyabad Colliery and that Prasad was in the Loyabad colliery on duty on 18th November 1957 till 2-15 p.m. and it is admitted that there is no ordinary mode of transport by which he could have reached West Bokaro colliery by 8 p.m. on 18th November 1957.

10. The second witness Rahman Khan, (P.W. 3) Overman in Charge, West Bokaro Colliery, who was examined evidently to corroborate the statement of the first witness R. K. Prasad (P.W. 2) stated that on 19th November, 1957 at about 10-30 a.m. when he was going from the office towards his quarters with Raj Kishore Babu (P.W. 2), he saw J. N. Prasad, the workman concerned in this dispute. Thereupon he asked Raj Kishore Babu who this new man was and Raj Kishore Babu replied that he knew him and that he worked at Loyabad. It will thus be seen that whilst P.W. 2 stated that he had seen J. N. Prasad at the West Bokaro colliery at 7 a.m. on 19th November, 1957 and he stated nothing about having seen him in the company of Rahman Khan, Rahman Khan, (P.W. 3) says that he saw J. N. Prasad at about 10-30 a.m. on 19th November 1957 when he was in the company of Raj Kishore Prasad. There is therefore clear inconsistency in the evidence of P.W. 2 and of P.W. 3. Besides, the story of Rahman Khan that because he saw a new face at the colliery he asked Raj Kishore Babu who he was, appears to be unnatural and unconvincing. The defence of the workman that these were witnesses who were under the management's control receives strength from the fact admitted by the management that Rahman Khan (P.W. 3) was a former employee of the Loyabad colliery. I am inclined to the opinion that the evidence of these two witnesses was so unreliable, unconvincing, inconsistent and improbable, as not to be believed by any impartial enquiry officer. It is also significant that the enquiry which was fixed on 14th December, 1957 was suddenly adjourned sine die. It appears to me that the contention of Prasad that these 2 witnesses were not independent witnesses but under the control of the management is justified.

11. It is now well settled that the purpose of a departmental enquiry by a Domestic Tribunal is to see whether the charge framed against the concerned employee is proved on the evidence recorded at the enquiry. The finding of the Enquiry Officer must be based on the evidence on the record. As held by the Hon'ble Supreme Court in the case of Indian Iron & Steel Co., Ltd., Versus their workmen (1958 -I.L.L.J.p. 261 at page 269 and 270) the Tribunal would be justified in interfering with the order of dismissal of the management when on the materials the finding of the management is completely baseless or perverse. In my opinion the evidence at the enquiry was so completely unsatisfactory that no impartial enquiry officer would have on the basis of that evidence come to the conclusion that it was established that Prasad had during the period of his unauthorised absence gone to West Bokaro colliery. This finding in the light of the circumstances stated above, must be held to be perverse.

12. It was sought to be argued by Shri Mukherjea, learned Advocate for the company that Shri Prasad's story that he was so unwell that he could not move out of the house could not be believed. In that connection he has relied upon the statement of Ramchandra Tewary, office chaprasi (D.W. 1) who was examined at the enquiry and who stated that he had on 21st November 1957 taken a letter from the Manager to J. N. Prasad at his residence and met him on the road at the entrance to Bhuli colony. It is, however, admitted that Prasad lived in the Bhuli colony. Merely by the fact that he was seen on 21st November 1957 in the Bhuli colony would not establish that he was not well during 19th to 22nd November 1957.

13. It was also argued that Prasad if he was really ill and unable to attend to his duties could very well have informed the management to that effect by having sent a letter through one of the other employees of the workshop who were also living in Bhuli colony. To this, Prasad's explanation was that he had no servant and he was not in a fit condition to move out to send any letter to the management. But the finding of the enquiry officer, as stated in the Manager's letter of dismissal dated 3rd January 1958, was that it was proved at the enquiry that Prasad had visited the West Bokaro colliery during the period 19th November 1957 to 22nd November where an illegal strike was in progress—the suggestion

being that he had gone there to further the progress of that illegal strike. The management therefore had dismissed him not because Prasad had failed in his duty to inform the management that he was not well and could not attend but because the management was satisfied that the enquiry had established that he had visited West Bokaro Colliery during the 18th and 21st November 1957. In other words he was dismissed because the management believed the evidence of witnesses P.W. 2 and P.W. 3 that he had gone to the West Bokaro colliery. It must be remembered that on 18th November 1957 Prasad was treated at the company's hospital and thereafter admitted on 23rd, 24th and 25th November, he was treated at the Bhulli dispensary, as proved by Exhibit E-7. The Bhulli dispensary certificate states that Prasad was suffering from fever and dermatitis. It was suggested by Shri Mukherjea, learned Advocate for the management that this was a different malady from the one for which he was treated earlier at the company's hospital on 18th November 1957. But it is significant to note that both the company's doctor as well as the Bhulli doctor had prescribed the same lotion namely lotion calamine, indicating that Shri Prasad was treated at the Bhulli hospital for the same malady as by the company's hospital on the 18th November.

14. Shri Lalit Burman on behalf of the workman, next contended that absence without permission could amount to misconduct only if it had extended for a period of more than 10 days. In that connection he has referred to Standing Order No. 27(16) which provides that continuous absence without permission and without satisfactory cause for more than 10 days would amount to misconduct. He has, therefore, argued that as Prasad's absence had only been of 4 days, he was not guilty of misconduct under Standing Order 27(16), which was the proper standing order which applied. He has further contended that the management had recourse to standing order No. 12 in a mala fide manner because it will know that Standing Order 27(16) would not apply. His further contention that Standing Order No. 12 does not apply to cases of absence from work for short periods like 4 days, as in the instant case. Standing order No. 12 provides as follows:—

"Notwithstanding anything mentioned above, any employee who overstays his sanctioned leave or remains absent without properly approved leave will render himself liable for disciplinary action."

Reading this Standing Order with Standing Order No. 11, it does appear that the absence contemplated by this Standing Order relates to absence by way of overstaying of sanctioned leave or availing oneself of leave which is due without proper approval of the management and that short unauthorised absence from work as in this case would more properly be a misconduct if it falls under the provisions of Standing Order 27(16). However, as I have held that the order of dismissal was perverse, it is not necessary to give a finding on this contention.

15. In the result, I am satisfied that the dismissal of Shri J. N. Prasad was not justified and I answer the first question under reference accordingly. The next question to consider is as to what relief Prasad is entitled to. Considering all the facts and circumstances of the case I think the ends of justice would be met if I were to direct that Prasad should be reinstated in service in his old post with continuity of service within a month from the date the award herein becomes enforceable on his presenting himself for being taken back in service and that the management shall pay him half the basic pay and dearness allowance for the period from the date of dismissal i.e. from 3rd January 1958 till the date of his reinstatement within 7 days of his reinstatement.

16. I award Rs. 50/- (Rupees fifty) as costs to the workman.

SALIM M. MERCHANT,
(Sd.)

Chairman, Central Govt.
Industrial Tribunal, Dhanbad.

Dhanbad,

The 8th November 1958.

[No. LR II/2(84)/58.]

S.O. 2480.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Labour Court, Nagpur, in the industrial dispute between the employers in relation to the Rayatwari Colliery, Chanda and their workmen.

BEFORE SHRI P. D. VYAS, CENTRAL GOVERNMENT LABOUR COURT,
NAGPUR AT BOMBAY

REFERENCE (LC) No. 3 of 1958

AN ADJUDICATION BETWEEN

The employers in relation to
Rayatwari Colliery, Chanda.

AND

Their Workmen.

In the matter of an industrial dispute re. dismissal of a workman.

APPEARANCES :

Shri S. G. Rao, Manager, with Shri S. R. Dhas—for the Management.

Shri K. R. Nalamwar, President, Maharashtra Khadan Mazdoor Sangh—for
the workmen.

AWARD

In exercise of the powers conferred by clause (c) sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Central Government was pleased to refer to me an industrial dispute between the employers in relation to Rayatwari Colliery, Chanda, and their workmen for adjudication by Government Order No. LRI/2(40)/58 dated 9-5-1958. The dispute relates to the matter specified in the schedule annexed to the said order.

SCHEDULE

"Whether the dismissal of Shri Ramteke Madana, ex-Sirdar of Rayatwari Colliery, Chanda, was wrongful and if so, to what relief Shri Madana is entitled."

2. On the usual notices being issued the President, Maharashtra Khadan Mazdoor Sangh, Chanda, has filed the statement of claims on behalf of the workman and the Manager, Rayatwari Colliery, Chanda, has filed the written statement on behalf of the Company.

3. The case on behalf of the workman is that on Sunday the 1st December 1957, Shri Ramteke Madana was collecting weekly subscription from the members of the Maharashtra Khadan Mazdoor Sangh, Rayatwari Colliery, Chanda. Shri Dughals, Mining Engineer, accompanied with a team of Chowkidar, Engineer, Over-man, Accountant and Office Superintendent apprehended Shri Madana and snatched away the Union's subscription book and assaulted him and his co-workers. He was thereafter driven out of the Colliery area and when on the same night he reported for work he was not allowed to work in the night shift. Since then he is being refused employment without having been served with any charge-sheet or without disclosing any reason whatsoever. It is alleged by the Management that his services were terminated due to his violent behaviour and statements but the incident took place on Sunday which was a rest day for him and when he was not on duty. No question of violent behaviour and statements as such on his part therefore arises. As regards the assault on Shri Madana, the incident has been reported to the Police Station, Chanda, and a criminal case under section 107 of the Criminal Procedure Code has been started by the Police. Any allegation that Shri Madana took part in an illegal strike on 4th and 5th of December, 1957 is untenable and unwarranted since his services have been terminated on 1st December, 1957. It is clear that Shri Madana has been dismissed on account of his trade union activities in the Colliery and he should therefore be reinstated with full backwages.

4. The case on behalf of the Management is that the weekly payment to the labour having remained unfinished on 30-11-1957, it was again taken up on 1-12-1957. Shri Ramteke Madana started collecting subscription at the counter when the payment was in progress. The Maharashtra Khadan Mazdoor Sangh for which the collections were being made by Shri Madana has not been recognised by the Company and many of the workers being not the members of the said Union protested against Shri Madana making the collections. In the result there was a lot of confusion and nuisance at the counter and it became almost impossible to make the disbursements. Moreover, Shri Madana was not permitted by the Management to collect money at the counter or within the Colliery premises. In the circumstances Shri Madana was asked to stop his

collections at the counter but he did not listen and he and his companions acted in an offensive and abusive manner. It is untrue that the Manager with his assistants apprehended him or assaulted him though it is a fact that the subscription book was taken away from him and a report was made to the police against him and others. Though the incident took place on Sunday, even on a rest day it was not open to Shri Madana to behave in a riotous and unruly manner and be offensive towards the Management. It is Shri Madana and his companions who have been proceeded against under section 107 of Criminal Procedure Code and besides, he having actively worked to incite the labour to go on illegal strike on the 4th and 5th December, 1958, the matter was reported to the Regional Labour Commissioner and to the Deputy Superintendent of Police, Chanda. It is denied that Shri Madana has been dismissed for his trade Union activities and alleged that while in service he was found guilty of the following acts and omissions:

- (a) Sleeping during duty hours amounting to dereliction of duty;
- (b) Appointing persons to work in the colliery without jurisdiction;
- (c) Falsely showing his presence in the attendance register on 31-3-1957, 1-4-1957 & 2-4-1957 even though he had actually enjoyed leave and thereby tried to cheat the Management;
- (d) Signing the attendance register in advance;
- (e) Disobeyed the order of the Management in riding in bucket in a shaft, a very serious matter exposing himself to the risk of death and exposing the colliery to blame and the risk of payment of compensation for loss of life.

This past record and the unruly and unbecoming behaviour of Shri Madana made it incumbent on the Management to remove him from service. He was, therefore, dismissed on 1-12-1957 and refused employment from that date. It is true that a charge-sheet was not given to him before dismissal but this is not a requirement under law, but under circulars issued and no circulars for the conduct of business have been issued in regard to this colliery. Non-issue of charge-sheet for the incident on 1-12-1957 therefore cannot make the dismissal of Shri Madana illegal. In the circumstances stated above Shri Madana was found incompetent for the job and has shown himself unreliable and dishonest. His wanton disobedience to safety regulations and orders of the Management make it risky to retain him any longer in service with the responsible duties of a Sirdar.

5. The Management next contends that Shri Madana after his dismissal has accepted his dues in full and final settlement of his claims and thus the matter has been concluded. Moreover, the Maharashtra Khadan Mazdoor Sangh has not been recognised by the Management and is thus not entitled to take up the cause of Shri Madana and make it an industrial dispute. Assuming it could do so, the said Union has never approached the Management for the reinstatement of Shri Madana and there arose no industrial dispute between the Union and the employers so as to make it competent to the Government to make the present reference. Besides a dismissed workman cannot by making a demand for reinstatement, create an industrial dispute and his dismissal has not developed into a dispute in which the majority of the workers of the Colliery have become interested or have espoused his cause. In the absence of any industrial dispute, the reference made is without jurisdiction.

6. The question arising in the present reference is whether the dismissal of Shri Ramteke Madana, ex-Sirdar of Rayatwari Colliery, Chanda was wrongful and if so, to what relief Shri Madana is entitled. It is an undisputed fact that he was a working Sirdar and the President of the Maharashtra Khadan Mazdoor Sangh, Rayatwari Branch, Chanda. I was told that the said Sangh is a registered Trade Union and it cannot be gainsaid that the Union of which Shri Madana is a member and office-bearer has taken up his cause and turned it into a collective dispute on behalf of the workmen in general. It appears from the failure report of the Conciliation Officer (Central), Ex. U-2, that the Maharashtra Khadan Mazdoor Sangh, Chanda by its letter dated 4-12-1957 represented that Management of Rayatwari Colliery, Chanda illegally dismissed Shri Ramteke Madana, on account of his Trade Union activities. The Union thus sought the intervention of the Conciliation Officer and requested for the reinstatement of the said employee. The representative of the Management appearing before the Conciliation Officer stated that in the past Shri Ramteke Madana had committed certain offences but every time lenient view was taken and he was pardoned. The said representative further expressed that considering the action of Shri Ramteke Madana on 5-12-1957 when he prohibited certain leaders from going

underground and the past offences committed by him, the Management had no other alternative but to dismiss him from service. The Management's representative then denied the allegation of any victimisation on account of the Trade Union activities of Shri Madana. It is thus incorrect to say that the Management was never approached for reinstatement of Shri Madana or that this is not an industrial dispute which could be referred for adjudication by the Government. In my opinion the present reference is quite competent and this Tribunal has got the jurisdiction to proceed with the same on merits.

7. The weekly payment day to the labour was on 30-11-1957 but the payment having remained unfinished on that day it was taken up on the next day, i.e. on 1-12-1957. It was on this day that Shri Ramteke Madana started collecting subscription in his capacity as the President, Maharashtra Khadan Mazdoor Sangh, Rayatwari Colliery Branch, Chanda, along with his Secretary. On behalf of the workmen it was alleged that Shri Madana was collecting subscription in the Labour colony where the workmen are residing, i.e. at a distance of about 200 ft. from the office. No such case has been specifically pleaded in the statement of claims nor does it look quite correct in the circumstances of the case. According to the workmen's own version the Mining Engineer along with a team of some other officers snatched away the subscription book and turned out Shri Madana after having committed an act of assault on him. If the collection took place in the labour colony away from the office, no such incident is likely to take place and there is every likelihood that Shri Madana was collecting subscription without permission of the Management just at the counter or near the office which seriously disturbed the work of payment to labour going on on that day. The Management admits the fact that the subscription book was taken away from him and that in view of his unruly and unbecoming behaviour together with his past bad record he was removed from service with effect from 1-12-1957.

8. In the written statement filed in the present reference as well as in the proceedings before the Conciliation Officer, the Management has made certain confusion as to the ultimate cause which led to the dismissal of Shri Madana. So far as the past record is concerned, it is relevant only for determining the nature of the punishment provided the incident which took place on 1-12-1957 is true. So also the subsequent behaviour, if any, on the part of the worker concerned on 4th and 5th December, 1957 in connection with the alleged incitement to strike (c.f. Exs. C 12 & C 14) is not quite relevant, when according to the Management's own case in the written statement Shri Madana was dismissed on 1-12-1957. The letter dated 1-12-1957 addressed to him for the purpose by the Colliery Manager stands thus—(vide Exs. C11 & U1):—

"In view of your violent behaviour and statements this morning and considering the fact that you have been issued with various charge sheets in the past for breaches of Mining Laws and other unseemly behaviour, I regret that your services are no longer required by this firm.

You will please attend the office and take your final settlement forthwith." It is this dismissal which is the subject-matter of the present reference.

9. It appears that after the incident on 1-12-1957, the matter was taken up to the Police by both the parties. So far as these police actions by the parties are concerned, I was told that at present there is no criminal case pending between them. Moreover no question relating thereto arises before us in the present reference. That Shri Madana was making unauthorised collection on 1-12-1957 without the permission of the Management cannot be denied and it was not open to him to create any disturbance at the counter or at the office where the weekly payment to labour was going on. Whether it was a Sunday or a rest day for Shri Madana makes no difference, because any such riotous behaviour or act subversive of discipline does give rise to an action on the part of the Management even if it takes place outside the working hours or outside the premises of the establishment—*vice Workmen of the Shalimar Rope Works vs. Shallmar Rope Works, Ltd.—1953 II L.L.J. 876*. But at the same time the Management could not summarily dismiss the concerned workman in the manner it has done and even if there be no standing orders governing the Concern, the Management should have followed the principles of natural justice and given an opportunity to the workman to render explanation. In the written statement it is alleged that the non-issue of charge-sheet for the incident cannot make the dismissal illegal and that the Management is under no legal obligation to issue

any charge-sheet. In fact there are papers on record which indicate that for the past incidents referred to in the written statement, the Management did issue charge-sheet. Thus the Management is aware of the requirement of a charge-sheet or giving a formal opportunity to the workman concerned to make his defence and there is justification why the Management should have given a go-bye to the usual procedure at the time of the last incident on 1-12-1957. In my opinion, therefore, the action of the Management in summarily dismissing the workman is not justified and in the ordinary circumstances the concerned workman would have been entitled to the normal relief of reinstatement with back wages.

10. There are however other factors in the case which disentitle the concerned workman to any relief. In the first place there is enough material *vide* Exs. C2 to C10 and C-13 indicating his past bad record and the Management has rightly contended that it is risky to retain him any longer in service and entrust to him the responsible job of a Sirdar. The matter does not rest there. We find that the concerned workman has later on given up the dispute and accepted certain money from the Management in full and final settlement of his claims. He was paid in all Rs. 275-55 on 15-4-1958 and he has passed the following receipt in his own hand and in his own language which has been translated into English and attested by certain witnesses—*vide* Ex. C1 along with its enclosures and C17:

"I have today received my dues in full and final settlement from M/s. R. B. Seth Shreeram Durgaprasad, Proprietor, Chanda Rayatwari Colliery, Chanda. I got no any other claims what-so-ever on the company henceforth, as I got all my dues to my satisfaction. I shall be vacating my Quarters immediately."

That he did accept the money and knew what it was has not been disputed and he has further admitted that the said writing in vernacular is in his own hand and under his signature. The payment consists of bonus, leave pay, notice pay and difference in arrears of wages and when the worker goes to the extent of saying that not only he has no other claims whatsoever but he shall also be vacating his Quarters immediately, it means that it was a final settlement under which he severed his connection with the Management for good. If really there was to remain any dispute outstanding between the Management and the workman, it is unlikely that he would agree to vacate his Quarters. That there was a talk that the Management should pay his dues to Shri Madana and settle the dispute amicably could not be denied by the Union looking to its report as per Ex. U3 to the Conciliation Officer (Central). What is there alleged is that after signing the papers of settlement, when Shri Madana took the amount, he found that it was not even one-third of the total amount due to him. In the first place it is significant to note that the statement of claims is entirely silent on this point and this important subsequent event which goes to the root of the matter has been there kept back. Even after the Management mentioned the same in its written statement, no attempt has been made to deny or explain the same by filing any rejoinder. It is unlikely that the workman would actually receive the money without any protest as he has done. As said above it is an undisputed fact that he did accept the money and knew what it was. If he really felt that the payment fell short of the amount due to him or expected by him, he would have refused to accept the same. Obviously any attempt on his behalf to report to the Conciliation Officer (Central) as per Ex. U-3 is an after-thought. Not only this but the worker went to the extent of charging the Management with a criminal act of cheating but I was told that the police took no action in the matter. In my opinion the fact that there has been a full and final settlement in satisfaction of the claims of the concerned workman cannot be denied and it is not open to him to seek the relief of reinstatement and/or any compensation. The dispute having been settled between the parties, there arises no question of granting any relief to the workman Shri Madana and the reference stands disposed of accordingly.

Dated: 7th November 1958.

(Sd.) P. D. VYAS,

Judge,

Central Govt. Labour Court,
Nagpur.

S.O. 2481.—Whereas an industrial dispute exists between the employers in relation to the East Kumardhuli Colliery and their workmen represented by the Colliery Mazdoor Sangh, Dhanbad;

And whereas the management of the said colliery and the Colliery Mazdoor Sangh have, under sub-section (1) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), referred the dispute to arbitration by an Arbitration Agreement and have forwarded to the Central Government under sub-section (3) of the said section a copy of the said Arbitration Agreement;

Now, therefore, in pursuance of sub-section (3) of section 10A of the said Act, the Central Government hereby publishes the said Arbitration Agreement.

FORM C

(See Rule 7)

AGREEMENT

Under Section 10A of the Industrial Disputes Act, 1947)

BETWEEN

Name of Parties:

Representing Employers:

Shri L. J. Pathak,
Chief Welfare Officer,
Shree Shree Lakshmi Narain Trust,
East Kumardhuli Colliery,
P.O. Chirkunda (Dhanbad).
Shri S. Radha Krishnan,
Manager, East Kumardhuli Colliery
P.O. Chirkunda (Dhanbad).

Representing Workmen :

The President,
Colliery Mazdoor Sangh,
Opposite State Bank of India,
Dhanbad.
The General Secretary,
Colliery Mazdoor Sangh,
Opp: State Bank of India,
Dhanbad.

It is hereby agreed between the parties to refer the following industrial dispute to the arbitration of

Shri Salim Merchant, B.A.L.L.B.,
Chairman,
Central Government Industrial Tribunal,
Dhanbad.

(i) Specific matters in disputes:

Shri Ramkissen Das,
Trammers' Sirdar should be removed from
East Kumardhuli Colliery.

(ii) Details of the parties to the dispute including the name and address of the Establishment or undertaking involved.

Employers of East Kumardhuli Colliery
M/s. Shree Lakshmi Narain Trust,
P.O. Chirkunda, Dist. Dhanbad.

(iii) Name of the Union, if any, representing the workmen in question.

Colliery Mazdoor Sangh, Regd. No. 491
Opposite State Bank of India, Dhanbad.

(iv) Total number of workmen employed in the undertaking affected. 590

(v) Estimated number of workmen affected or likely to be affected by the dispute. 540

We further agree that the majority decision of the arbitrator shall be binding on us.

Signature of the Parties.

Witness:

(1) Sd/- N. M. TRIVEDI,
(Cashier, E.K. Colly)

Sd/- L.J. PATHAK,
Chief Welfare Officer,
Shree Shree Lakshmi Narain Trust,
East Kumardhuli Colliery,
P.O. Chirkunda (Dhanbad).
Representing Employers.

Sd/- S. RADHA KRISHNA,
Colliery Manager,
Sree Sree Lakshmi Narain Trust,
East Kumardhuli Colliery,
P.O. Chirkunda (Dhanbad).
Representing Employers.

(2)

Sd/- KANTI MEHTA,
President,
Colliery Mazdoor Sangh (INTUC),
Opposite State Bank of India,
Dhanbad.
Representing Workers.

(R. N. SHARMA), M.L.A.
General Secretary,
Colliery Mazdoor Sangh (INTUC),
Opposite State Bank of India,
Dhanbad.
Representing Workers.

Dated: 23rd October '58.

[No. LRII-2(146)/58.]

New Delhi, the 24th November 1958

S.O. 2482.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to M/S Nenshi Monji, Quarry Owners, Bombay, and their workmen.

BEFORE SHRI F. JEEJEEBHOOY CHAIRMAN, LABOUR APPELLATE TRIBUNAL, OF INDIA, FUNCTIONING AS THE SOLE MEMBER OF THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CONSTITUTED BY THE ORDER OF THE GOVERNMENT OF INDIA, MINISTRY OF LABOUR AND EMPLOYMENT DATED 14TH AUGUST 1958, WITH HEADQUARTERS AT BOMBAY.

REFERENCE (CGIT) No. 1 OF 1958

In the matter of:
Nenshi Monji, Quarry owners.

AND
Their workmen.

APPEARANCES:

For the employers.—Shri R. N. Ramdas, Labour Adviser.

For the workmen.—Shri R. S. Kulkarni, President, Mumbai Wa Upnayan Dagad Khan Kamgar Union.

AWARD

The Central Government by its Order of 14th August 1958 referred an industrial dispute between Nenshi Monji, Quarry owners of Bombay, and their workmen to this Tribunal for adjudication. The two issues for decision are as follows:—

1. What should be the recess hours for the workers of quarry of M/s Nenshi Monji, and

2. Is it absolutely necessary to have second recess for purposes of blasting?

2. This quarry is situated on the Kurla-Vihar road, and the 23 acres which comprise the total quarry area of the firm of Nenshi Monji about the main road. In the quarry the workmen before me are engaged for the purpose of drilling into the rock and of breaking the blasted rock; the blasting is done by others.

3. The hours of work at the quarry are as follows:

First Session: 8 A.M. to 12 Noon.

Recess: 12 to 1-30 P.M.

Second Session: 1-30 to 3 P.M.

Recess for blasting: 3 to 3-30 P.M.

Third Session: 3-30 to 6 P.M.

4. It is the contention of labour that the lunch hour is unduly long and should be reduced by half an hour. Labour further contends that the half hour recess for blasting is unnecessary, and that the blasting should be done within the recess of 12 and 1. In other words labour complains that the recesses taken together are too long, and should be reduced by one hour, so that the workmen may not be required to stand around unduly.

5. I have sympathy with the view that the workmen should not have to remain around any longer than is necessary, even though they may be living at or near the quarry. But the subject is not free from difficulty. This particular quarry covers an area of $1\frac{1}{2}$ acres out of the total area of 23 acres. The remaining area of $21\frac{1}{2}$ acres is partly let out to others on royalty and is otherwise vacant. Next to the quarry of the concern before me are five quarry areas in adjacent compartments taken by others on royalty from this firm; they all blast at the same time between 3 and 3-30 P.M. Furthermore they have the same recess hours; and it has been pointed out to me that while there are about 200 to 300 workers on the whole lot, I am asked to change the recess and blasting hours for the sake of just 12 permanent workers represented by the union. The union however, points out that there are altogether 40 persons engaged on this $1\frac{1}{2}$ acres for blasting, transporting and breaking of rock, and that thus, apart from the 12 permanent workers, there are some 30 others who are working there either under contractors or some other system of engagement. The employers reply that the mechanical unit staff like the garage staff, drivers, and others connected with transport work, also have to go considerable distances in order to have their lunch. The job of the permanent worker is as stated to drill and to break the blasted rock; and four of the workers are on the crushing machine.

6. I think it would be better if I were to deal first with the claim that the blasting hour should be incorporated within the present recess of 12 to 1-30, or within the reduced recess as required by labour, between 12 and 1. I have visited the site. This quarry area is alongside a main road and blasting is done under licence issued by the Police. One of the terms of the licence is that the blasting charges at a quarry shall not be exploded save between the hours mentioned in the licence, but no hours have been mentioned. It is however common ground that the blasting in this area is done between 3 and 3-30 P.M. after the Police have made arrangements for the stoppage of traffic along this road during this period of half an hour. It is not disputed that the Police likewise have to make similar arrangements during blasting at other places within the contiguous region. It is therefore evident that the Police have to adjust the timings of the different blasters so as to provide for their own convenience in the matter of arrangements. They have fixed upon the period between 3 and 3-30 for this particular quarry area, and the management cannot be blamed for this arrangement. Nor would it be easy to have the hours altered by the Police having regard to their other commitments; and it has not been suggested that there are complaints from the other five quarries immediately adjacent to the quarry before me regarding the blasting hours. In the circumstances it is not possible to direct the management to change its blasting hours when in effect the management has very little or no control over the subject.

7. As regards the other claim, for the reduction of the $1\frac{1}{2}$ hour lunch recess to one hour, I have heard parties on their relevant contentions. As I have said before, the permanent staff under the management consists of just 12 workers of whom 4 are on the crushing machine. There are in addition a person to look after the managerial work; a person who issues tools, gunpowder etc; a mukkadam; and the foreman of the crushing section. These last four have to go far in order to secure their midday meal and have not asked for any reduction in the lunch recess, whereas the permanent workers have their habitation near the quarry. Then again I have to consider the mechanical and transport staff who also have to go some distance in order to secure their midday meal. They have not complained that the recess is too long. It may be that the 12 permanent workmen can do with half hour less for their lunch interval, but I am bound to balance the requirements of the other persons when deciding whether the recess hours should be reduced. Upon a consideration of the matter I do not feel that

I would be justified in directing a reduction of the lunch hour recess from 1½ hours to 1 hour, and in coming to this decision I have naturally been influenced by circumstances like the situation of the quarry and facilities which are available to the staff for securing a meal and rest in the vicinity, and the prevailing practice in the area.

8. In the result I am unable to grant the two claims which have been pressed by labour.

9. Now, therefore, I make an award in terms aforesaid.

The 3rd November, 1958.

(Sd.) F. JEEJEBHOY,

Chairman, Labour Appellate Tribunal of India, functioning as the Sole Member, Central Government Industrial Tribunal, with headquarters at Bombay.

[No. LRII/63(3)/58.]

S.O. 2483.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the M/s. S. K. Sahana and Sons (P) Ltd. and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL DHANBAD

REFERENCE No. 37 of 1958

PARTIES:

Employers in relation to the Mica Mines of Messrs. S. K. Sahana and Sons Limited.

AND

Their workmen.

Dated the 31st October, 1958.

PRESENT:

Shri Salim M. Merchant, B.A., LL.B., Chairman.

APPEARANCES:

Shri R. B. Sahana, Director, Messrs. S. K. Sahana & Sons Ltd.—for the employers.

Shri Yash Raj Singh, General Secretary, Mica Labour Union—for the workmen.

State : Bihar.

Industry : Mica.

AWARD

The Government of India, Ministry of Labour & Employment, by Order No. LRII/6(3)/58 dated 11th June, 1958 made in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 47), was pleased to refer to me for adjudication the industrial dispute between the parties above named regarding the question whether the refusal of the management to employ the 59 workers listed in the schedule to the said order since 21st February, 1958 was justified and, if not, to what relief they are entitled.

2. After the usual notices were issued, the written statement of claim on behalf of the workmen was filed by Shri Yash Raj Singh, General Secretary, Mica Labour Union on 30th June, 1958 and the written statement in reply was received from the employers Messrs. S. K. Sahana & Sons (Private) Limited on 3rd July, 1958 and the written statement was also received on behalf of the Joint Receivers on 8th July, 1958. When the dispute was fixed for hearing, the parties took several adjournments to reach a settlement and on the adjourned hearing on 30th October, 1958 the parties filed a joint application recording the terms of settlement that had been reached between them and prayed that an award be made in terms thereof. A copy of the said application is annexed hereto and marked Annexure 'A' and being satisfied that the terms of settlement are fair and reasonable, I hereby make an award in terms thereof, as far as they concern the subject matter of the dispute.

3. No order as to costs.

Dhanbad, the 31st October, 1958.

(Sd.) SALIM M. MERCHANT, Chairman,
Central Government Industrial Tribunal, Dhanbad.

ANNEXURE A

BEFORE THE CHAIRMAN, CENTRAL GOVT. INDUSTRIAL TRIBUNAL,
DHANBAD.

REFERENCE No. 37 of 1958.

M/s. S. K. Sahana & Sons Ltd.

AND

their workmen of Mines.

We the parties to the dispute beg to state that we make the settlement as follows:-

1. The company has already re-employed in service 26 workmen out of 59 workmen mentioned in the Schedule in Government Reference No. 37 of 1958, as per list attached.

2. The management further agrees to reinstate the remaining 33 workmen no sooner they report for work.

3. It is further agreed that the management will make the payments in respect of monthly Bonus for August and September 1957 to the workers by the end of December 1958.

4. We the parties further pray, that the Tribunal may grant an Award in terms of the aforesaid agreement.

Representative of workmen:

(Sd.) YASH RAJ SINGH,
General Secretary,

Mica Labour Union.

Dhanbad, 30th day of October 1958.

(Sd.) R. B. SAHANA,

For M/s. S. K. Sahana & Sons Ltd.
representative of management.

List of Labourers working in the mine

Araria Mine.

1. Sri Soman Singh.
2. Sri Lalit Chamar.
3. Sri Sogna Bhuria.
4. Sri Jagdish Bhuria.
5. Sri Laldhari Singh.
6. Sri Dhanu Turi.
7. Sri Kewal Singh.
8. Sri Deoki Singh.
9. Sri Rohan Singh.
10. Sri Lakshman Ram.
11. Sri Lalu Ram.
12. Sri Janki Mahto.
13. Sri Kali Dusad.
14. Sri Bifa Bhuria.
15. Sri Gopal Turi.

Kerwatarl Mine.

1. Sri Badri Prosad.

Mejhli Mine.

1. Sri Horil Barhi.
2. Sri Ramlall Dusadh.
3. Sri Bhiki Ram.
4. Sri Mahabir Dusadh
5. Sri Jankd Kandu.

5. Sri Meghan Dusadh.
6. Sri Keramat Mian.
7. Sri Laldhari Singh.
8. Sri Lalit Bhula.
9. Sri Chhota Bhula.
10. Sri Chhota Bhula.

Sd. YASH RAJ SINGH,
Representative of workmen

Dhanbad,
The 30th October 1958.

(Sd.) R. B. SAHANA,
Director.

M/s. S. K. Sahana & Sons Ltd.
Representative of management.

[No. LRII/6(3)/58]

ORDER

New Delhi, the 29th November 1958

S.O. 2484.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Noodit-Jitpur Colliery of India Iron and Steel Company Ltd. and their workmen in respect of the matter specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the reversion of Shri Ram Lall from the post of an office peon to the post of a Shalc picker by the management of Noodit-Jitpur Colliery is justified and if not, to what relief is he entitled and from what date?

[No. LRII-2(157) 58.]

K. D. HAJELA, Under Secy.

New Delhi, the 24th November 1958

S.O. 2485.—In exercise of the powers conferred by sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby appoints Shri Gurbhachan Singh Jabbu, Additional Chief Inspector of Mines, to be the Chief Inspector of Mines for all the territories to which the said Act extends, with effect from the 20th November, 1958, vice Shri Sarwan Singh Grewal, granted leave.

[No. M.I.8(37)58.]

S. RANGASWAMI, Under Secy.

New Delhi, the 24th November 1958

S.O. 2486.—In pursuance of section 8 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby nominates Shri M. S. Bhatnagar, Joint Secretary to the Government of India, Ministry of Finance, to be a member of the Standing Committee of the Employees' State Insurance Corporation in the place of Shri A. V. Venkateswaran, and makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment No. S.R.O. 2360, dated the 5th October, 1956, namely:—

In the said notification, for item (3), the following item shall be substituted, namely:—

“(3) Shri M. S. Bhatnagar, Joint Secretary to the Government of India, Ministry of Finance.”

[No. F. HI-1(72)/58.]

S.O. 2487.—In pursuance of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby nominates Shri M. S. Bhatnagar, Joint Secretary to the Government of India, Ministry of Finance to be a member of the Employees' State Insurance Corporation in the place of Shri A. V. Venkateswaran, and makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment No. HI-1(196)/57, dated the 15th March, 1958, namely:—

In the said notification, under the heading 'Members', for item 5, the following item shall be substituted namely:—

"5. Shri M. S. Bhatnagar, Joint Secretary to the Government of India, Ministry of Finance."

[No. F. HI-1(72)/58.]
BALWANT SINGH, Under Secy.

New Delhi, the 24th November 1958

S.O. 2488.—In exercise of the powers conferred by section 7B of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes a National Industrial Tribunal with headquarters at Bombay and appoints Shri F. Jeejeebhoy, Chairman, Labour Appellate Tribunal, Bombay as the presiding Officer of that Tribunal.

[No. LR-IV-3(40)/58-I.]

ORDER

New Delhi, the 24th November 1958

S.O. 2489.—Whereas the Central Government is of opinion that the dispute exists between the Cantonment Boards specified in Schedule I hereto annexed and their workmen on one or more of the matters specified in Schedule II hereto annexed, being a dispute which is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute.

And, whereas, the Central Government is of opinion that the dispute should be adjudicated by a National Tribunal:

Now, therefore, in exercise of the powers conferred by sub-section (IA) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute to the National Tribunal constituted by the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 2488, dated the 24th November, 1958, for adjudication.

SCHEDULE I

1. Agra	31. Jutogh
2. Ahmedabad	32. Kamptee
3. Ahmednagar	33. Kanpur
4. Allahabad	34. Kasauli
5. Almora	35. Kirkee
6. Amritsar	36. Khasyal
7. Ambala	37. Landour
8. Aurangabad	38. Lansdowne
9. Bakloh	39. Lebong
10. Banaras	40. Lucknow
11. Badamibagh	41. Mathura
12. Barrackpore	42. Meerut
13. Bareilly	43. Mhow
14. Belgaum	44. Morar
15. Chakrata	45. Nainital
16. Clement Town	46. Nasirabad
17. Dagshai	47. Pachmarhi
18. Dalhousie	48. Poona
19. Delhi	49. Ramgarh
20. Dehra Dun.	50. Ranikhet
21. Deolali	51. Roorkee
22. Dinapore	52. Sagar
23. Faizabad	53. St. Thomas Mt.
24. Fatehgarh	54. Secunderabad
25. Ferozepore	55. Shahjahanpur
26. Jalapahar	56. Shillong
27. Jabalpur	57. Subathu
28. Jhansi	58. Wellington
29. Jammu	59. Cannanore
30. Jullundur	60. Dehu Road.

SCHEDULE II

1. Whether or not the services of the Cantonment Board workmen should be centralized?
2. Whether promotions be given strictly according to seniority of the workmen. If not, what should be the criteria for promotion and what should be seniority list in each category of workmen?
3. Whether or not the pay scales enjoyed by the Central Government employees should be made applicable to the workmen of the Cantonment Board? If not, whether the pay scales of the workmen of a Cantonment Board should be revised and refixed according to the pay scales applicable to workmen of the adjoining Municipality?
4. Whether or not the Cantonment Board workmen are entitled to the payment of dearness allowance at Central Government rates?
5. Whether or not the contribution to the provident fund by the Board authority should be equal to that of the workmen?
6. Whether or not the workmen should be allowed house rent allowance?
7. Whether or not the Cantonment Board authorities be required to make a provision for payment of gratuity to their workmen at the time of their retirement. If so, at what rates?
8. Whether or not 50% of dearness allowance being paid to the workmen be merged with their pay?
9. Whether or not the workmen and their dependents should be allowed free medical aid?
10. Whether or not the workmen employed in essential services should be allowed festival and other holidays as are allowed to the office staff?
11. Whether clause (e) of sub-rule (1) of rule 8 of the Cantonment Fund Servants Rules, 1937 is unreasonable? If so in what manner should it be amended?
12. Extension of service to the Cantonment Fund employees at the time of their retirement.

[No. LR-IV-3(40)/58-II.]

TEJA SINGH SAHNI, Dy. Secy.

MINISTRY OF INFORMATION AND BROADCASTING

ORDER

New Delhi, the 22nd November 1958

S.O. 2490.—The Central Government hereby:

(a) directs, in pursuance of the provisions of the Order of the Government of India in the Ministry of Information and Broadcasting No. S.R.O. 3805, dated the 26th December, 1955 and in modification of the Order of the Government of India in the Ministry of Information and Broadcasting No. S.O. 2134, dated the 1st October, 1958, that the Advisory Panel of the Central Board of Film Censors at Bombay shall consist of 32 members with immediate effect; and

(b) appoints, after consultation with the Central Board of Film Censors, Shrimati Chandravati Lakhapal, M.P., as a Member of the Advisory Panel of the said Board at Bombay with immediate effect in exercise of the powers conferred by sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958:—

[No. 11/1/58-FC.]

D. R. KHANNA, Under Secy.

